KA / BG-GPO/2515/WPP-47/2006-2008



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೩	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಮಾರ್ಚ್ ೨೭, ೨೦೦೮ (ಚೈತ್ರ ೭, ಶಕ ವರ್ಷ ೧೯೨೯)	ಸಂಚಿಕೆ ೧೩

ಭಾಗ–೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 48 ಕೇಶಾಪ್ರ 2007 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 27ನೇ ಆಗಸ್ಟ್ 2007

2007ನೇ ಸಾಲಿನ ಜೂನ್ 6ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The National Institutes of Technology Act, 2007 (Act No. 29 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 6th June, 2007/Jyaistha 16, 1929 (Saka)

The following Act of Parliament received the assent of the President on the 5th June, 2007, and is hereby published for general information :-

THE NATIONAL INSTITUTES OF TECHNOLOGY ACT, 2007

No. 29 OF 2007

[5th June, 2007]

An Act to declare certain institutions of technology to be Institutions of national importance and to provide for instructions and research in branches of engineering, technology, management, education, sciences and arts and for the advancement of learning and dissemination of knowledge in such branches and for certain other matters connected with such institutions.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic o f India as follows :-

CHAPTER - I

PRELIMINARY

1. Short title and commencement : (1) This Act may be called the National Institutes of Technology Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazettee, appoint, and different dates may be appointed for different provisions of this Act.

2. Declaration of certain Institutions as Institutions of national importance : Whereas the objects of the institutions mentioned in the Schedule are such as to make them Institutions of national importance, it is hereby declared that each such institute is an Institution of national importance.

3. Definitions : In this Act, unless the context otherwise requires,—

(a) “Board”, in relation to any Institute, means the Board of Governors thereof;

(b)”Chairperson” means the Chairperson of the Board;

(c) “Corresponding Institute", in relation to a society mentioned in column (2) of the Schedule, means the Institute as specified in column (3) of the Schedule;

(d) “Council” means the Council established under sub-section (1) of section 30;

(e) “Deputy Director”, in relation to any Institute, means the Deputy Director thereof;

(f) “Director”, in relation to any Institute, means the Director thereof;

(g) “Institute” means any of the Institutions mentioned in column (3) of the Schedule;

(h) “notification” means a notification published in the Official Gazette;

(i) “prescribed” means prescribed by rules made under this Act;

(j) “Registrar”, in relation to any Institute, means the Registrar thereof;

(k) “Schedule” means the Schedule annexed to the Act;

(l) “Senate”, in relation to any Institute, means the Senate thereof;

(m) “Society” means any of the societies registered under the Societies Registration Act, 1860 (21 of 1860) and mentioned in column (2) of the Schedule;

(n) “Statutes” and “Ordinances”, in relation to any Institute, means the Statutes and Ordinances of that Institute made under this Act.

CHAPTER II

THE INSTITUTES

4. Incorporation of Institutes : (1) Each of the Institutes mentioned in column (3) of the Schedule shall be a body corporate having perpetual succession and a common seal and shall, by its name, sue and be sued.

2) The body corporate constituting each of the said Institutes shall consist of a Chairperson, a Director and other members of the Board for the time being of the institute.

5. Effect of incorporation of Institutes : On and from the commencement of this Act,—

(a) any reference to a society In any law, other than this Act, or in any contract or other instrument shall be deemed as a reference to the corresponding Institute;

(b) all property, movable and immovable, of or belonging to a society shall vest in the corresponding Institute;

(c) all the rights and liabilities of a society shall be transferred to, and be the rights and liabilities of the corresponding Institute; and

(d) every person employed by a society, immediately before such commencement shall hold his office or service in the corresponding Institute for the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his -employment may be terminated by the Institute in accordance with the terms of contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute, of compensation equivalent to three months' remuneration in the case of permanent employee and one month's remuneration in the case of other employee.

6. Powers of Institutes : (1) Subject to the provisions of this Act, every Institute shall exercise the following powers and perform the following duties, namely:—

(a) to provide for instruction and research in such branches of engineering and technology, management, education, sciences and arts, as the Institute may think fit, and for the advancement of learning and dissemination of knowledge in such branches;

(b) to hold examinations and grant degrees, diplomas and other academic distinctions or titles;

(c) to confer honorary degrees or other distinctions;

(d) to fix, demand and receive fees and other charges;

(e) to establish, maintain and manage halls and hostels for the residence of students;

(f) to supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(g) to provide for the maintenance of units of the National Cadet Corps for the students of the Institute;

(h) to institute academic and other posts with the prior approval of the Central Government, and to make appointments thereto excluding the Director and the Deputy Director;

(i) to frame Statutes and Ordinances and to alter, modify or rescind the same;

(j)to deal with any property belonging to or vested in the institute in such manner as the Institute may deem fit for advancing the objects of the Institute;

(k) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of movable or immovable properties from testators, donors or transferors, as the case may be;

(l) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(m) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(n) to undertake consultancy in the areas or disciplines relating to the Institute; and

(o) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

(2) Notwithstanding anything contained in sub-section (1), an Institute shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

7. Institutes to be open to all races, creeds and classes : (1) Every Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

(2) No bequest, donation or transfer of any property shall be accepted by any Institute, which in the opinion of the Council involves conditions or obligations opposed to the spirit and object of this section.

8. Teaching at Institutes : All teaching at each of the Institutes shall be conducted by or in the name of the Institute in accordance with the Statutes and Ordinances made in this behalf.

9. Visitor : (1) The President of India shall be the Visitor of every Institute.

(2) The Visitor may appoint one or more persons to review the work and progress of any Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions within reasonable time.

10. Authorities of Institutes : The following shall be the authorities of an Institute, namely:—

(a) a Board of Governors;

(b) a Senate; and

(c) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

11. Board of Governors : The Board of every Institute shall consist of the following members, namely:—

(a) the Chairperson to be nominated by the Visitor;

(b) the Director, ex officio;

(c) two persons not below the rank of the Joint Secretary to the Government of India to be nominated by the Central Government from amongst persons dealing with technical education and finance;

(d) two persons to be nominated by the Government of the State in which the Institute is situated, from amongst persons, who, In the opinion of that Government, are technologists or industrialists of repute;

(e) two persons, at least one of whom shall be a woman, having special knowledge or practical experience in respect of education, engineering or science to be nominated by the Council; and

(j) one professor and one assistant professor or a lecturer of the Institute to be nominated by the Senate.

12. Terms of office of, vacancies among and allowances payable to members of Board : Save as otherwise provided in this section,—

(a) the term of office of the Chairperson or other members of the Board shall be three years from the date of his nomination;

(b) the term of office of an ex officio member shall continue so long as he holds the office by virtue of which he is a member;

(c) the term of office of a member nominated under clause (f) of section 11 shall be two years from the date of his nomination;

(d) a casual vacancy shall be filled up in accordance with the provisions of section 11;

(e) the term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place, he has been nominated;

(f) the member of the Board shall be entitled to such allowances, if any, from the Institute as may be provided for in the Statutes hut no member other than the members referred to in clauses (b) end (f) of section 11 shall be entitled to any salary by reason of this clause.

13. Powers and functions of Board : (1) Subject to the provisions of this Act, the Board of every Institute shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers of the Institute not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

(2) Without prejudice to the provisions of sub-section (1), the Board of every Institute shall,—

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) institute courses of study at the Institute;

(c) make Statutes;

(d) institute and appoint persons to academic as well as other posts in the Institute;

(e) consider and modify or cancel Ordinances;

(j) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute for the next financial year as it thinks fit and submit them to the Council together with a statement of its development plans;

(g) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes;

(3)The Board shall have the power to appoint such committees, as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

14. Senate : The Senate of every Institute shall consist of the following persons, namely:—

(a) the Director, ex officio, who shall be the Chairman of the Senate;

(b) the Deputy Director, ex officio;

(c) the Professors appointed or recognised as such by the Institute for the purpose of imparting instructions in the Institute;

(d) three persons, one of whom shall be a woman, not being employees of the Institute, to be nominated by the Chairperson in consultation with the Director, from amongst educationists of repute, one each from the field of science, engineering and humanities; and

(e) such other members of the staff as may be laid down in the Statutes.

15. Functions of Senate : Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate of an Institute shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

16. Chairperson of Board : (1) The Chairperson shall ordinarily preside at the meetings of the Board and at the Convocations of the Institute.

(2) It shall be the duty of the Chairperson to ensure that the decisions taken by the Board are implemented.

(3) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or, the Statutes.

17. Director and Deputy Director : (1) The Director and Deputy Director of an Institute shall be appointed by the Visitor, on such terms and conditions of service and on the recommendations of a Selection Committee constituted by him in such manner, as may be prescribed by the Statutes.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the proper administration of the Institute and for the imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit annual reports and accounts to the Board.

(4) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or Ordinances.

(5) The Deputy Director of every Institute shall exercise such powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director.

18. Registrar : (1)The Registrar of every Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the Board, Senate and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director.

19. Other authorities and officers : The powers and duties of authorities and officers other than those mentioned above shall be determined by the Statutes.

20. Grants by Central Government : For the purpose of enabling the Institutes to discharge their functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to every Institute in each financial year such sums of money and in such manner as it may think fit.

21. Fund of Institute : (1) Every Institute shall maintain a Fund to which shall be credited-

(a) all moneys provided by the Central Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund of every Institute shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund of every Institute shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

22. Accounts and audit : (1) Every institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be specified by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of every Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of any Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular shall have the rights to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(4) The accounts of every institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament in accordance with such procedure as may be laid down by the Central Government.

23. Pension and provident fund : Every Institute shall constitute for the benefit of its employees such provident or pension fund or provide such insurance scheme as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

24. Appointments : All appointments of the staff of every Institute, except that of the Director and Deputy Director, shall be made in accordance with the procedure laid down in the Statutes, by—

(a) the Board, if the appointment is made on the academic staff in the post of Lecturer or above or if the appointment is made on the non-academic staff in any cadre the maximum of the pay scale for which exceeds rupees ten thousand five hundred;

(b) the Director, in any other case.

25. Statutes : Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the conferment of honorary degrees;

(b) the formation of departments of teaching:

(c) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees and diplomas of the Institute;

(d) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(e) the term of office and the method of appointment of officers of the institute;

(f) the qualifications of teachers of the Institute;

(g) the classification, the method of appointment and the determination of the terms and conditions of service of teachers and other staff of the Institute;

(h) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the institute;

(i) the constitution, powers and duties of the authorities of the Institute,

(j) the establishment and maintenance of halls and hostels;

(k) the conditions of residence of students of the Institute and the levying of fees for residence in the halls and hostels and of other charges;

(l) the allowances to be paid to the Chairperson and members of the Board;

(m) the authentication of the orders and decisions of the Board; and

(n) the meetings of the Board, the Senate, or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business.

26. Statutes how made : (1) The first Statutes of each Institute shall be framed by the Central Government with the prior approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner provided in this section.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of Statutes shall require the previous approval of the Visitor who may grant assent or withhold assent or remit it to the Board for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

27. Ordinances : Subject to the provisions of this Act and the Statutes, the Ordinances of every Institute may provide for all or any of the following matters, namely:—

(a) the admission of the students to the Institute;

(b) the courses of study to be laid down for all degrees and diplomas of the Institute;

(c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the Institute, and shall be eligible for degrees and diplomas;

(d) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;

(e) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;

(J) the conduct of examinations;

(g) the maintenance of discipline among the students of the Institute; and

(h) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

28. Ordinances how made : (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall he submitted, as soon as may be, to the Board and shall be considered by the Board at its next meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

29. Tribunal of Arbitration : (1) Any dispute arising out of a contract between an Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor.

(2) The decision of the Tribunal shall be final and shall not be questioned in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter, which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

CHAPTER III

THE COUNCIL

30. Establishment of Council : (1) With effect from such date as the Central Government may, by notification, specify in this behalf, there shall be established for all the Institutes specified in column (3) of the Schedule, a central body to be called the Council.

(2) The Council shall consist of the following members, namely:—

(a) the Minister in charge of the Ministry or Department of the Central Government having administrative control of the technical education, ex officio, as Chairman;

(b) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the technical education, ex officio, as Vice-Chairman;

(c) the Chairperson of every Board, ex officio;

(d) the Director of every Institute, ex officio;

(e) the Chairman, University Grants Commission, ex officio;

(j) the Director General, Council of Scientific and Industrial Research, ex officio;

(g) four Secretaries to the Government of India, to represent the Ministries or Departments of the Central Government dealing with biotechnology, atomic energy, Information technology and space, ex officio;

(h) the Chairman, All India Council for Technical Education, ex officio;

(i) not less than three, but not more than five persons to be nominated by the Visitor, at least one of whom shall be a woman, having special knowledge or practical experience in respect of education, industry, science or technology;

(j) three members of Parliament, of whom two shall be chosen by the House of the People and one by the Council of States:

Provided that the office of member of the Council shall not disqualify its holder for being chosen as or for being, a member of either House of Parliament;

(k) two Secretaries to the State Government, from amongst the Ministries or Departments of that Government dealing with technical education where the Institutes are located, ex officio;

(l) Financial Advisor, dealing with the Human Resource Development Ministry or Department of the Central Government, ex officio;

(m) one officer not below the rank of Joint Secretary to the Government of India in the Ministry or Department of Central Government having administrative control of the Technical Education, ex officio, as Member-Secretary.

31. Term of office of vacancies among and allowances payable to members of council : (1)The terms of office of a member shall be three years from the date of notification:

Provided that the term of office of an ex officio member shall continue so long as he holds office by virtue of which he is such a member.

(2) The term of office of a member elected under clause (j) of sub-section (2) of section 30 shall expire as soon as he ceases to be member of the House, which elected him.

(3) The term of office of a member nominated or elected to fill a causal vacancy shall continue for the remainder of the term of the member in whose place he has been appointed.

(4) Notwithstanding anything contained in this section an outgoing member shall, unless the Central Government otherwise directs, continue in office until another person is appointed as a member in his place.

(5) The members of the Council other than ex officio member shall be paid such traveling and other allowances as may be prescribed.

32. Functions of council : (1) It shall be the general duty of the Council to co-ordinate the activities of all the Institutes.

(2) Without prejudice to the provisions of sub-section (1), the Council shall perform the following functions, namely:—

(a) to advise on matters relating to the duration of the courses, the degrees and other academic distinctions to be conferred by the Institutes, admission standards and other academic matters;

(b) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and freeships, levying of fees and other matters of common interest;

(c) to examine the development plans of each Institute and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(d) to advise the Visitor, if so required, in respect of any function to be performed by him under this Act; and

(e) to perform such other functions as are assigned to it by or under this Act.

33. Chairman of Council : (1)The Chairman of the Council shall ordinarily preside at the meetings of the Council:

Provided that, in his absence, the Vice-Chairman of the Council shall preside at the meetings of the Council.

(2) it shall be the duty of the Chairman of the Council to ensure that the decisions taken by the Council are implemented.

(3) The Chairman shall exercise such other powers and perform such other duties as are assigned to him by this Act.

(4) The Council shall meet once in every year and follow such procedure in its meetings as may be prescribed.

34. Power to make rules in respect of matters in this Chapter : (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the travelling and other allowances payable to members of the Council under sub-section (5) of section 31; and

(b) the procedure to be followed in the meetings of the council under sub-section (4) of section 33.

(3) Every rule made by the Central Government under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

CHAPTER IV
MISCELLANEOUS

35. Acts and proceedings not to be invalidated by vacancies, etc. : No act of the Council, or any Institute or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reason of -

(a) any vacancy or defect in the constitution thereof, or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

36. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act the Central, Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

37. Transitional provisions : Notwithstanding anything contained in this Act—

(a) the Board of Governors of every Institute functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for that Institute

under this Act, but on the constitution of a new Board under this Act, the member of the Board holding office before such constitution shall cease to hold office;

(b) every Senate constituted in relation to every Institute before the commencement of this Act shall be deemed to be the Senate constituted under this Act until a Senate is constituted under this Act for that Institute but on the constitution of new Senate under this Act, the members of the Senate holding office before such constitution shall cease to hold office.

THE SCHEDULE

[See sections 3 (g), (m) and 4(1)]

LIST OF CENTRAL INSTITUTIONS INCORPORATED INTO THE ACT

Sl. No.	Society	Corresponding Institute
1.	Motilal Nehru National Institute of Technology, Allahabad Society	Motilal Nehru National Institute of Technology, Allahabad.
2.	Maulana Azad National Institute of Technology, Bhopal Society	Maulana Azad National Institute of Technology, Bhopal.
3.	National Institute of Technology, Calicut Society	National Institute of Technology, Calicut.
4.	National Institute of Technology, Durgapur Society	National Institute of Technology, Durgapur.
5.	National Institute of Technology, Hamirpur Society	National Institute of Technology, Hamirpur.
6.	Malaviya National Institute of Technology, Jaipur Society	Malaviya National Institute of Technology, Jaipur.
7.	Dr. B.R. Ambedkar National institute of Technology, Jalandhar Society	Dr. B.R. Ambedkar National Institute of Technology, Jalandhar.
8.	National Institute of Technology, Jamshedpur Society	National Institute of Technology, Jamshedpur.
9.	National Institute of Technology, Kurukshetra Society	National Institute of Technology, Kurukshetra.
10.	Visvesvaraya National Institute of Technology, Nagpur Society	Visvesvaraya National Institute of Technology, Nagpur.
11.	National Institute of Technology, Patna Society	National Institute of Technology, Patna.
12.	National Institute of Technology, Rourkela Society	National Institute of Technology, Rourkela.
13.	National Institute of Technology, Silchar Society	National Institute of Technology, Silchar.
14.	National Institute of Technology, Srinagar Society	National Institute of Technology, Srinagar.
15.	Sardar Vallabhbhai National Institute of Technology, Surat Society	Sardar Vallabhbhai National Institute of Technology, Surat.
16.	National Institute of Technology Karnataka, Surathkal Society	National Institute of Technology Karnataka, Surathkal.
17.	National Institute of Technology, Tiruchirappalli Society	National Institute of Technology, Tiruchirapalli.
18.	National Institute of Technology, Warangal Society	National Institute of Technology, Warangal.

Sl. No.	Society	Corresponding Institute
19.	National Institute of Technology, Raipur Society	National Institute of Technology, Raipur.
20.	National Institute of Technology, Agartala Society	National Institute of Technology, Agartala

K.N. CHATURVEDI,
Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಪಿ.ಆರ್. 72

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 54 ಕೇಶಾಪ್ರ 2007 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 17ನೇ ಅಕ್ಟೋಬರ್ 2007

2007ನೇ ಸಾಲಿನ ಜೂನ್ 19ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The State Bank of India (Subsidiary Banks Laws) Amendment Act, 2007 (Act No. 30 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE STATE BANK OF INDIA (SUBSIDIARY BANKS LAWS) AMENDMENT ACT, 2007

AN

ACT

Further to amend the State Bank of Saurashtra Act, 1950, the State Bank of Hyderabad Act, 1956 and the State Bank of India (Subsidiary Banks) Act, 1959.

BE it enancted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

PART 1
PRELIMINARY

1. Short title and commencement : (1) This Act may be called the State Bank of India (Subsidiary Banks Laws) Amendment Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provison.

CHAPTER II

AMENDMENTS TO THE STATE BANK OF SAURASHTRA ACT, 1950

2. Substitution of new section for section 5 : For Section 5 of the State Bank of Saurashtra Act, 1950 (hereafter in this Chapter referred to as the State Bank of Saurashtra Act), the following section shall be substituted, namely:-

"5. Authorised capital : (1) Subject to the provisions of this Act, the authorised capital of the Saurashtra Bank shall be rupees five hundred crores.

(2) The authorised capital of the Saurashtra Bank shall be divided into shares of one hundred rupees each or of such denomination as the Saurashtra Bank may, with the approval of the State Bank, decide.

(3) The Saurashtra Bank may issue the certificates of shares of equivalent values of such denomination as the Saurashtra Bank may decide with the approval of the State Bank, in accordance with the procedure as may be specified by regulations made under section 63 of the State Bank of India

(Subsidiary Banks) Act, 1959 (38 of 1959) and every shareholder of the Saurashtra Bank shall be entitled to have the certificate of shares of equivalent value of such denomination.

(4) Notwithstanding anything contained in sub-section *(1),* the State Bank may, with the approval of the Reserve Bank, authorise the Saurashtra Bank to increase or reduce its authorised capital."

3. Amendment of section 6 : In section 6 of the State Bank of Saurashtra Act,-

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), the issued capital of the Saurashtra Bank, shall consist of such amount as the State Bank may, with the approval of the Reserve Bank, fix, and, shall be divided into fully paid-up shares of such denomination in accordance with sub-section (2) of section *5*.";

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) The Saurashtra Bank may, from time to time, with the approval of the State Bank and the Reserve Bank, increase, whether by public issue or by preferential allotment or private placement in accordance with the procedure as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959, (38 of 1959) its issued capital by issue of equity or preference shares.

(3A) The issued capital of the Saurashtra Bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.

(3B) The Saurashtra Bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time by way of issuing bonus shares to existing equity shareholders, its issued capital in such manner as the State Bank, with the approval of the Reserve Bank, direct.

(3C) No increase or reduction in the issued capital of the Saurashtra Bank shall be made in such a manner that the State Bank holds at any time less than fifty-one per cent. of the issued capital consisting of equity shares of the Saurashtra Bank.

(3D) The Saurashtra Bank may accept the money in respect of shares issued towards increase in issued capital in instalments, make calls and forfeit unpaid shares and re-issue them, in the manner as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959. (38 of 1959)".

CHAPTER III

AMENDMENTS TO THE STATE BANK OF HYDERABAD ACT, 1956

4. Substitution of new section for section 9 : For section 9 of the State Bank of Hyderabad Act, 1956 (79 of 1956) (hereafter in this Chapter referred to as the State Bank of Hyderabad Act), the following section shall be substituted, namely:—

"9. Authorised capital : (1) Subject to the provisions of this Act, the authorised capital of the Hyderabad Bank shall be rupees five hundred crores.

(2) The authorised capital of the Hyderabad Bank shall be divided into shares of one hundred rupees each or of such denomination as the Hyderabad Bank may, with the approval of the State Bank, decide.

(3) The Hyderabad Bank may issue the certificates of shares of equivalent values of such denomination as the Hyderabad Bank may decide with the approval of the State Bank, in accordance with

the procedure as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) and every shareholder of the Hyderabad Bank shall be entitled to have the certificate of shares of equivalent value of such denomination.

(4) Notwithstanding anything contained in sub-section (1), the State Bank may, with the approval of the Reserve Bank, authorise the Hyderabad Bank to increase or reduce its authorised capital.".

5. Amendment of section 10 : In section 10 of the State Bank of Hyderabad Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:

"(1A) Notwithstanding anything contained in sub-section (1), the issued capital of the Hyderabad Bank, shall consist of such amount as the State Bank may, with the approval of the Reserve Bank, fix, and shall be divided into fully paid-up shares of such denomination in accordance with sub-section (2) of section 9.";

(b) for sub -section (3), the.following sub-sections shall be substituted, namely:—

"(3) The Hyderabad Bank may, from time to time, with the approval of the State Bank and the Reserve Bank, increase, whether by public issue or by preferential allotment or private placement in accordance with the procedure as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959, (38 of 1959) its issued capital by issue of equity or preference shares.

(3A) The issued capital of the Hyderabad Bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.

(3B) The Hyderabad Bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time by way of issuing bonus shares to existing equity shareholders, its issued capital in such manner as the State Bank, with the approval of the Reserve Bank, direct.

(3C) No increase or reduction in the issued capital of the Hyderabad Bank shall be made in such a manner that the State Bank holds at any time less than fifty-one per cent, of the issued capital consisting of equity shares of the Hyderabad Bank.

(3D) The Hyderabad Bank may accept the money in respect of shares issued towards increase in issued capital in instalments, make calls and forfeit unpaid shares and re-issue them, in the manner as may be specified by regulations made under section 63 of the State Bank of India (Subsidiary Banks) Act, 1959. (38 of 1959) ".

CHAPTER IV

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

6. Substitution of new section for section 6: For section 6 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) [hereafter in this Chapter referred to as the State Bank of India (Subsidiary Banks) Act], the following section shall be substituted, namely:—

"6 Authorised capital of new bank : (1) Subject to the provisions of this Act, the authorised capital of every new bank shall be rupees five hundred crores.

(2) The authorised capital of every new bank shall be divided into shares of one hundred rupees each or of such denomination as the new bank may, with the approval of the State Bank, decide.

(3) Every new bank may issue the certificates of shares of equivalent values of such denomination as the new bank may, decide, with the approval of the State Bank, in accordance with the procedure as may be prescribed and every shareholder of the new bank shall be entitled to have the certificate of shares of equivalent value of such denomination.

(4) Notwithstanding anything contained in sub-section (1), the State Bank may, with the approval of the Reserve Bank, authorise a new bank to increase or reduce its authorised capital.".

7. Amendment of section 7 : In section 7 of the State Bank of India (Subsidiary Banks)Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), the issued capital of a new bank shall, consist of such amount as the State Bank may, with the approval of the Reserve Bank, fix, and shall be divided into fully paid-up shares of such denomination in accordance with sub-section (2) of section 6.";

(b) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

"(4) A new bank may from time to time, with the approval of the State Bank and the Reserve Bank, increase, whether by public issue or by preferential allotment or private placement in accordance with the procedure as may be prescribed, its issued capital by issue of equity or preference shares.

(5) The issued capital of a new bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.

(6) A new bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time by way of issuing bonus shares to existing equity shareholders, its issued capital in such manner as the State Bank, with the approval of the Reserve Bank, direct.

(7) No increase or reduction in the issued capital of a new bank shall be made in such a manner that the State Bank holds at any time less than fifty-one per cent, of the issued capital consisting of equity shares of new bank.

(8) A new bank may accept the money in respect of shares issued towards increase in issued capital in instalments, make calls and forfeit unpaid shares and re-issue them, in the manner as may be prescribed.".

8. Amendment of section 18 : In section 18 of the State Bank of India (Subsidiary Banks) Act, in sub-section (2), for the words "fifty-five per cent. of the issued capital", the words "fifty-one per cent. of the issued capital consisting of equity shares" shall be substituted.

9. Insertion of new section 18A : After section 18 of the State Bank of India (Subsidiary Banks) Act, the following section. shall be inserted, namely:—

"18A. Right of registered shareholder to nominate : (1) Every individual registered shareholder of a subsidiary bank may, at any time, nominate, in the prescribed manner, an individual to whom all his rights in the shares shall vest in the event of his death.

(2) Where the shares are registered in the name of more than one individual jointly, the joint holders may together nominate in the prescribed manner, an individual to whom all their rights in the shares shall vest in the event of the death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such shares where a nomination made in the

prescribed manner purports to confer on any individual the right to vest the shares, the nominee shall, on the death of the shareholder or, as the case may be, on the death of all the joint holders, become entitled to all the rights of the shareholder or, as the case may be, of all the joint holders, in relation to such shares to the exclusion of all other persons unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the individual registered as the holder of the shares to make nomination to appoint, in the prescribed manner, any person to become entitled to the shares in the event of his death during the minority of the nominee.".

10. Substitution of new section for section 19 : For section 19 of the State Bank of India (Subsidiary Banks) Act, the following section shall be substituted, namely:—

"19. Restriction on voting rights : No shareholder, other than the State Bank, shall be entitled to exercise voting rights in respect of any shares held by him in excess of ten per cent. of the issued capital of the subsidiary bank concerned:

Provided that the shareholder holding any preference share capital in the subsidiary bank shall, in respect of such capital, have a right to vote only on resolutions placed before such subsidiary bank which directly affect the rights attached to his preference shares:

Provided further that no preference shareholder shall be entitled to exercise voting rights in respect of preference shares held by him in excess of ten per cent, of the total voting rights of all the shareholders holding preference share capital only.".

11. Amendment of section 21 : Section 21 of the State Bank of India (Subsidiary Banks) Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for a subsidiary bank to keep the register of shareholders in computer floppies or diskettes or any other electronic form subject to such safeguards as may be prescribed.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, (1 of 1872) a copy of, or extract from, the register of shareholders, certified to be a true copy under the hand of any officer of the subsidiary bank authorised in this behalf shall in all legal proceedings, be admissible in evidence.".

12. Amendment of section 22 : In section 22 of the State Bank of India (Subsidiary Banks) Act, for the words and figures "Notwithstanding anything contained in section 19, no notice of any trust,", the words "No notice of any trust," shall be substituted.

13. Amendment of section 25 : In section 25 of the State Bank of India (Subsidiary Banks) Act,—

(1) in sub-section (1)—

(a) for clause (a), the following clause shall be substituted, namely:—

"(a) the Chairman for the time being of the State Bank, ex officio or an official of the State Bank or of the subsidiary bank nominated by him as Chairman, with the approval of the Reserve Bank;";

(b) for clause (b), the following clause shall be substituted, namely:—

"(b) one director, possessing necessary expertise and experience in the matters relating to regulation or supervision of commercial banks, to be nominated by the Reserve Bank;";

(c) for clause (d), the following clause shall be substituted, namely:—

"(d) not more than three directors to be elected in the following manner, namely:

(i) if the total amount of holdings of the shareholders (other than the State Bank) of a subsidiary bank is more than one per cent. of the total issued capital, and equal to or less than sixteen per

cent. of such capital, one director to be elected, in the prescribed manner, by such shareholders and two directors shall be nominated by the State Bank, or

(ii) if the total amount of holdings of the shareholders (other than the State Bank) of a subsidiary bank is more than sixteen per cent. of the total issued capital and equal to or less than thirty-two per cent, of such capital, two directors to be elected in the prescribed manner by such shareholders and one director shall be nominated by the State Bank, or

(iii) if the total amount of holdings of the shareholders (other than the State Bank) of a subsidiary bank is more than thirty-two per cent. of the total issued capital, all the three directors to be elected, in the prescribed manner, by such shareholders:

Provided that in case, the total amount of holdings of the shareholders of a subsidiary bank (other than the State Bank) is not more than one per cent, of the total issued capital, all three directors shall be nominated by the State Bank and such directors shall, for the purposes of this Act, be deemed to be directors elected under this clause.

Explanation;—For the purposes of this sub-section, the total amount of holdings of the shareholders (other than the State Bank) whose names are on the register of shareholders of the subsidiary bank three months before the date fixed for election of directors shall be taken into account.";

(ii) sub-section (3) shall be omitted;

(iii) in sub-section (4), the words "the Reserve Bank or" shall be omitted.

14. Insertion of new sections 25A and 25B : After section 25 of the State Bank of India (Subsidiary Banks) Act, the following sections shall be inserted, namely:—

"25A. Fit and proper status of an elected director : (1) The Directors to be elected under clause (d) of sub-section (1) of section 25 shall—

(a) have special knowledge or practical experience in respect of one or more of the following matters, namely:—

(i) agricultural and rural economy,

(ii) banking,

(iii) co-operation,

(iv) economics,

(v) finance,

(vi) law,

(vii) small-scale industry,

(viii) any other matter the special knowledge of, and practical experience in, which would, in the opinion of the Reserve Bank, be useful to the subsidiary bank;

(b) represent the interests of depositors; or

(c) represent the interests of farmers, workers and artisans.

(2) Without prejudice to the provisions of sub-section (1) and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be elected as director under clause (a) of sub-section (1) of section 25 unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard.

(3) The Reserve Bank may also specify in the notification issued under sub-section (2), the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determinations and such other matters as may be considered necessary or incidental thereto.

(4) Where the Reserve Bank is of the opinion that any director of a subsidiary bank elected under clause (d) of sub-section (1) of section 25 does not fulfil the requirements of sub-sections (1) and (2), it may, after giving to such director and the subsidiary bank a reasonable opportunity of being heard, by order, remove such director and on such removal, the Board of Directors shall co-opt any other person fulfilling the requirements of the said sub-sections as a director in place of the person so removed till a director is duly elected by the shareholders of the subsidiary bank in the next annual general meeting and the person so co-opted shall be deemed to have been duly elected by the shareholders of the subsidiary bank as a director.

25B. Power of Reserve Bank to appoint additional directors : (1) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the subsidiary bank or its depositors, it is necessary so to do, it may, from time to time and by order in writing appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the subsidiary bank.

(2) Any person appointed as additional director in pursuance of this section shall—

(a) hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further period not exceeding three years at a time as the Reserve Bank may specify;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) not be required to hold qualification shares in the subsidiary bank.

(3) For the purpose of reckoning any proportion of the total number of directors of the subsidiary bank, any additional director appointed under this section shall not be taken into account.".

15. Amendment of section 27 : In section 27 of the State Bank of India (Subsidiary Banks) Act, in sub-section(5), in clause (a), for the words and figures "Banking Companies Act, 1949", the words and figures "Banking Regulation Act, 1949" shall be substituted.

16. Amendment of section 34 : In section 34 of the State Bank of India (Subsidiary Banks) Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Board of Directors of a subsidiary bank shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed; and the meeting of the Board of Directors may be held by participation of the directors of the Board through video-conferencing or such other electronic means, as may be prescribed, which are capable of recording and recognising the participation of the directors and the proceedings of such meetings are capable of being recorded and stored:

Provided that the Central Government may in consultation with the Reserve Bank, by a notification in the Official Gazette, specify the powers which shall not be exercised in a meeting of the Board of Directors held through video-conferencing or such other electronic means.";

(b) in sub-section (2), for the words "The Chairman of the State Bank", the words "The Chairman of the Board of Directors of a subsidiary bank" shall be substituted;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3)All questions at the meeting of the Board of Directors of a subsidiary bank shall be decided by a majority of the votes of the directors present in the meeting or through video-conferencing or such other electronic means and in the case of equality of votes, the Chairman of Board of Directors of a

subsidiary bank or, in his absence, the person presiding at the meeting shall have a second or casting vote.";

(d) in sub-section (5), in the proviso, in clause (ii), for the words, brackets and letters "of the Reserve Bank or the State Bank nominated under clause (b) or clause (c)", the words, brackets and letter "of the State Bank nominated under clause (c)" shall be substituted;

(e) in sub-section (6), the words "and the Reserve Bank" shall be omitted.

17. Insertion of new section 35 A : After section 35 of the State Bank of India (Subsidiary Banks) Act, the following section shall be inserted, namely:—

"35A. Supersession of Board of Directors in certain cases: (1) Where the Reserve Bank, on the recommendation of the State Bank is satisfied that in the public interest or for preventing the affairs of a subsidiary bank being conducted in a manner detrimental to the interest, of the depositors or the subsidiary bank or for securing the proper management of the subsidiary bank, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of Directors of the subsidiary bank for a period not exceeding six months as may be specified in the order:

Provided that the period of supersession of the Board of Directors may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(2) The Reserve Bank may, on supersession of the Board of Directors of the subsidiary bank under sub-section (1) appoint, for such period as it may determine, an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy.

(3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of Directors of the subsidiary bank, notwithstanding anything contained in this Act,—

(a) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under this Act, or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of Directors of such subsidiary bank, or by a resolution passed in general meeting of the subsidiary bank, shall, until the Board of Directors of the subsidiary bank is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of the subsidiary bank.

(5) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee referred to in sub-section (5) shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(7) The salary and allowances payable to the Administrator and the members of the Committee constituted under sub-section (5) by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned subsidiary bank.

(8) On and before the expiration of two months before expiry of the period of supersession of the Board of Directors as specified in the order issued under sub-section (I), the Administrator of the subsidiary bank, shall call the general meeting of the subsidiary bank to elect new directors and reconstitute its Board of Directors.

(9) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of Directors of the subsidiary bank has been reconstituted.".

18. Amendment of section 38 : In section 38 of the State Bank of India (Subsidiary Banks) Act, in sub-section A (10), in clause (a), for the words and figures "Banking Companies Act, 1949", the words and figures "Banking Regulation Act, 1949" shall be substituted.

19. Amendment of section 39 : In section 39 of the State Bank of India (Subsidiary Banks) Act, for the word "December", the word "March" shall be substituted.

20. Insertion of new section 40A : After section 40 of the State Bank of India (Subsidiary Banks) Act, the following section shall be inserted, namely:—

'40A.Transfer of unpaid or unclaimed dividend to unpaid dividend account : (1) Where, after the commencement of the State Bank of India (Subsidiary Banks Laws) Amendment Act, 2007, a dividend has been declared by the subsidiary bank but has not been paid, or claimed, within thirty days from the date of declaration, to or by any shareholder entitled to the payment of the dividend, the subsidiary bank shall, within seven days from the date of the expiry of such period of thirty days, transfer the total amount of dividend which remains unpaid, or unclaimed within the said period of thirty days, to a special account to be called "unpaid dividend account of……………………………. (Name of the subsidiary bank)".

Explanation.— In this sub-section, the expression "dividend which remains unpaid" means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(2) Where the whole or any part of any dividend, declared by the subsidiary bank before the commencement of the State Bank of India (Subsidiary Banks Laws) Amendment Act, 2007, remains unpaid at such commencement, the subsidiary bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (1).

(3) Any money transferred to the unpaid dividend account of the subsidiary bank in pursuance of this section, which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the subsidiary bank to the Investor Education and Protection Fund established under sub-section (1) of section 205C of the Companies Act, 1956. (1 of 1956)'.

(4) The money transferred under sub-section (3) to the Investor Education and Protection Fund shall be utilised for the purposes and in the manner specified in section 205C of the Companies Act, 1956. (1 of 1956) '.

21. Amendment of section 43 : In section 43 of the State Bank of India (Subsidiary Banks) Act,—

(a) in sub-section (1), in clause (a), for the word "December", the word "March" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The balance-sheet and profit and loss account of the subsidiary bank shall be signed by persons holding the office of the chairman, managing director, and a majority of the other directors of the subsidiary bank in office.".

22. Amendment of section 44 : In section 44 of the State Bank of India (Subsidiary Banks) Act,—

(a) in sub-section (2),—

(i) for the words “discuss the balance-sheet”, the words “discuss and adopt the balance-sheet” shall be substituted;

(ii) for the word “December”, the word “March” shall be substituted;

(b) in sub-section (3), for the word “December”, the word “March” shall be substituted.

23. Amendment of section 48 : In section 48 of the State Bank of India (Subsidiary Banks) Act, in sub-section (2), for the words and figures “Indian Income-tax Act, 1922 (11 of 1922)”, the words and figures “Income-tax Act, 1961 (43 of 1961)” shall be substituted.

24. Amendment of section 50 : In section 50 of the State Bank of India (Subsidiary Banks) Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The officers, advisers and employees of the subsidiary bank concerned shall individually or jointly, or with other officers, advisers and employees in a committee exercise such powers and perform such duties as may, by general or special order, be entrusted or delegated to them by the Board of Directors or its Executive Committee.”.

25. Amendment of section 55 : In section 55 of the State Bank of India (Subsidiary Banks) Act, for the words ‘Banking Companies Act”, the words “Banking Regulation Act” shall be substituted.

26. Amendment of section 63 : In section 63 of the State Bank of India (Subsidiary Banks) Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Board of Directors of a subsidiary bank may, after consultation with the State Bank and with the previous approval of the Reserve Bank, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act or any other law for the time being in force;”;

(b) in sub-section (2),—

(i) after clause (f), the following clauses shall be inserted, namely:—

"(fa) the procedure for issuing the certificates of shares;

(fb) the procedure with respect to increase, whether by public issue or by preferencial allotment or private placement, the issued capital by issue of equity or preference shares;

(fc)the manner of acceptance of share money in instalments, the manner of making calls and the manner of forfeiture of unpaid shares and their re-issue;”;. -

(ii) for clause (g), the following clauses shall be substituted, namely:—

“(g) the maintenance of share registers, and the particulars to be entered in such registers in addition to those specified in sub-section (1) of section 21, the safeguards to be observed in the maintenance of the register of shareholders on computer floppies or diskettes or any other electronic form, the inspection and closure of the registers and all other matters connected therewith;

(ga) the manner in which every individual registered shareholder nominate, an individual to whom all his rights in the shares shall vest in the event of his death under sub-section (1) of section 18A;

(gb) the manner in which, the joint holders may nominate an individual to whom all their rights in the shares shall vest in the event of the death of all the joint holders under sub-section (2) of section 18A;

(gc) the manner in which nomination is varied or cancelled under sub-section (3) of section 18A;

(gd) the manner in which every individual registered as the holder of the shares to make nomination where nominee is a minor to appoint, any person to become entitled to the shares in the event of his death during the minority of the nominee under sub-section (4) of section 18A;";

(c) in sub-section (4), for the words “made under this Act”, the words “made under this section” shall be substituted.

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ
ಪಿ.ಆರ್. 82
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 56 ಕೇಶಾಪ್ರ 2007 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 29ನೇ ಅಕ್ಟೋಬರ್ 2007

2007ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 25ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Competition (Amendment) Act, 2007 (Act No. 39 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE COMPETITION (AMENDMENT) ACT, 2007

AN

ACT

to amend the Competition Act, 2002.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

1. Short title and commencement : (1) This Act may be called the Competition (Amendment) Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Amendment of section 2 : In section 2 of the Competition Act, 2002 (12 of 2003) (hereinafter referred to as the principal Act), after clause (b), the following clause shall be inserted, namely:—

‘(ba) “Appellate Tribunal” means the Competition Appellate Tribunal established under sub-section (1) of section 53A’.

3. Amendment of section 4 : In section 4 of the principal Act,—

(i) for sub-section (I), the following sub-section shall be substituted, namely:—

“(1) No enterprise or group shall abuse its dominant position.”;

(ii)in sub-section (2),—

(a) for the words, brackets and figure “under sub-section (1), if an enterprise”, the words, brackets and figure “under sub-section (1), if an enterprise or a group” shall be substituted;

(b) in clause (c), after the word “access”, the words “in any manner” shall be inserted;

(iii)after sub-section (2), in the Explanation, after clause (b), the following clause shall be inserted, namely:—

‘(c) “group” shall have the same meaning as assigned to it in clause (b) of the Explanation to section 5.’.

4. Amendment of section 5 : In section 5 of the principal Act, —

(i) in clause (a),—

(a) in sub-clause (i), for item (B), the following item shall be substituted, namely:—

"(B) in India or outside India, in aggregate, the assets of the value of more than five hundred million US dollars, including at least rupees five hundred crores in India, or turnover more than fifteen hundred million US dollars, including at least rupees fifteen hundred crores in India; or";

(b) in sub-clause (ii) for item (B), the following item shall be substituted, namely:—

"(B) in India or outside India, in aggregate, the assets of the value of more than two billion US dollars, including at least rupees five hundred crores in India, or turnover more than six billion US dollars, including at least rupees fifteen hundred crores in India; or";

(ii) in clause (b),—

(a) in sub-clause (i), for item (B), the following item shall be substituted, namely:—

"(B) in India or outside India, in aggregate, the assets of the value of more than five hundred million US dollars, including at least rupees five hundred crores in india, or turn over more than fifteen hundred million US dollars, including at least rupees fifteen hundred crores in India; or";

(b) in sub-clause (ii), for item (B), the following item shall be substituted, namely:—

"(B) in India or outside India, in aggregate, the assets of the value of more than two billion US dollars, including at least rupees five hundred crores in India, or turn over more than six billion US dollars, including at least rupees fifteen hundred crores in India; or";

(iii) in clause (c),—

(a) in sub-clause (i), for item (B), the following item shall be substituted, namely:—

"(B) in India or outside India, in aggregate, the assets of the value of more than five hundred million US dollars, including at least rupees five hundred crores in India, or turn over more than fifteen hundred million US dollars, including at least rupees fifteen hundred crores in India; or";

(b) in sub-clause (ii), for item (B), the following item shall be substituted, namely:—

"(B) in India or outside India, in aggregate, the assets of the value of more than two billion US dollars, including at least rupees five hundred crores in India, or turn over more than six billion US dollars, including at least rupees fifteen hundred crores in India.".

5.Amendment of section 6. : In section 6 of the principal Act, in sub-section (2),—

(a) for the words "may, at his or its option,", the word "shall" shall be substituted;

(b) for the words "seven days", the words "thirty days" shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—.

"(2A) No combination shall come into effect until two hundred and ten days have passed from the day on which the notice has been given to the Commission under sub-section (2) or the Commission has passed orders under section 31, whichever is earlier.".

6. Substitution of new section for section 8 : For section 8 of the principal Act, the following section shall be substituted, namely:—

"8. Composition of Commission: (1) The Commission shall consist of a Chairperson and not less than two and not more than six other Members to be appointed by the Central Government.

(2) The Chairperson and every other Member shall be a person of ability, integrity and standing and who has special knowledge of, and such professional experience of not less than fifteen years in, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters, including competition law and policy, which in the opinion of the Central Government, may be useful to the Commission.

(3) The Chairperson and other Members shall be whole-time Members.".

7. Substitution of new section for section 9 : For section 9 of the principal Act, the following section shall be substituted, namely:—

"9. Selection Committee for Chairperson and Members of Commission : (1) The Chairperson and other Members of the Commission shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of—

(a) the Chief Justice of India or his nominee…………………………..Chairperson;

(b) the Secretary in the Ministry of Corporate Affairs…………………Member;

(c) the Secretary in the Ministry of Law and Justice………………….Member;

(d) two experts of repute who have special knowledge of, and professional experience in international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters including competition law and policy……………….Members.

(2) The term of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed.".

8. Amendment of section 10 : In section 10 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

"Provided that the Chairperson or other Members shall not hold office as such after he has attained the age of sixty-five years.".

9. Amendment of section 12 : In section 12 of the principal Act, for the words "one year", the words "two years" shall be substituted.

10. Substitution of new section for section 13 : For section 13 of the principal Act, the following section shall be substituted, namely:—

"13. Administrative powers of Chairperson: The Chairperson shall have the powers of general superintendence, direction and control in respect of all administrative matters of the Commission:

Provided that the Chairperson may delegate such of his powers relating to administrative matters of the Commission, as he may think fit, to any other Member or officer of the Commission.".

11. Amendment of section 16 : In section 16 of the principal Act, —

(a) for sub-section (1), the following sub-sections shall be substituted, namely: —

"(1) The Central Government may, by notification, appoint a Director General for the purposes of assisting the Commission in conducting inquiry into contravention of any of the provisions of this Act and for performing such other functions as are, or may be, provided by or under this Act.

(1A) The number of other Additional, Joint, Deputy or Assistant Directors General or such officers or other employees in the office of Director General and the manner of appointment of such Additional, Joint, Deputy or Assistant Directors General or such officers or other employees shall be such as may be prescribed.";

(b) in sub-section (2), for the words "such other advisers, consultants and officers,", the words "such officers or other employees," shall be substituted;

(c) in sub-sections (3) and (4), for the words "such other advisers, consultants or officers,", the words "such officers or other employees," shall be substituted.

12. Substitution of new section for section 17 : For section 17 of the principal Act, the following section shall be substituted, namely: —

"17. Appointment of Secretary, experts, professionals and officers and other employees of Commission: (1) The Commission may appoint a Secretary and such officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(2) The salaries and allowances payable to and other terms and conditions of service of the Secretary and officers and other employees of the Commission and the number of such officers and other employees shall be such as may be prescribed.

(3) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to competition, as it deems necessary to assist the Commission in the discharge of its functions under this Act.".

13. Amendment of section 19 : In section 19 of the principal Act, in sub-section (1), in clause (a), for the words "receipt of a complaint,", the words "receipt of any information, in such manner and" shall be substituted.

14. Amendment of section 20 : In section 20 of the principal Act, in sub-section (2), the words, brackets and figures "or upon receipt of a reference under sub-section (1) of section 21" shall be omitted.

15. Amendment of section 21 : In section 21 of the principal Act,—

(a) in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that any statutory authority, may, suo motu, , make such a reference to the Commission.";

(b)for sub-section (2), the following sub-section shall be substituted, namely: —

"(2) On receipt of a reference under sub-section (1), the Commission shall give its opinion, within sixty days of receipt of such reference, to such statutory authority which shall consider the opinion of the Commission and thereafter, give its findings recording reasons therefor on the issues referred to in the said opinion.".

16. Insertion of new section 21A. : After section 21 of the principal Act, the following section shall be inserted, namely:—

"21A. Reference by Commission: (1) Where in the course of a proceeding before the Commission an issue is raised by any party that any decision which, the Commission has taken during such proceeding or proposes to take, is or would be contrary to any provision of this Act whose implementation is entrusted to a statutory authority, then the Commission may make a reference in respect of such issue to the statutory authority:'

Provided that the Commission, may, suo motu, make such a reference to the statutory authority.

(2) On receipt of a reference under sub-section (1), the statutory authority shall give its opinion, within sixty days of receipt of such reference, to the Commission which shall consider the opinion of the statutory authority, and thereafter give its findings recording reasons therefor on the issues referred to in the said opinion.".

17. Substitution of new section for section 22 : For section 22 of the principal Act, the following section shall be substituted, namely:—

"22. Meetings of Commission: (1) The Commission shall meet at such times and such places, and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations.

(2) The Chairperson, if for any reason, is unable to attend a meeting of the Commission, the senior-most Member present at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Commission shall be decided by a majority of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the Member presiding, shall have a second or casting vote:

Provided that the quorum for such meeting shall be three Members.".

18. Omission of section 23, 24 and 25 : Sections 23,24 and 25 of the principal Act shall be omitted.

19. Substitution of new section for section 26 : For section 26 of the principal Act, the following section shall be substituted, namely: —

"26. Procedure for inquiry under secton 19: (1) On receipt of a reference from the Central Government or a State Government or a statutory authority or on its own knowledge or information received under section 19, if the Commission is of the opinion that there exists a prima facie case, it shall direct the Director General to cause an investigation to be made into the matter:

Provided that if the subject matter of an information received is, in the opinion of the Commission, substantially the same as or has been covered by any previous information received, then the new information may be clubbed with the previous information.

(2) Where on receipt of a reference from the Central Government or a State Government or a statutory authority or information received under section 19, the Commission is of the opinion that there exists no prima facie case, it shall close the matter forthwith and pass such orders as it deems fit and send a copy of its order to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be.

(3) The Director General shall, on receipt of direction under sub-section (1), submit a report on his findings within such period as may be specified by the Commission.

(4) The Commission may forward a copy of the report referred to in sub-section (3) to the parties concerned:

Provided that in case the investigation is caused to be made based on a reference received from the Central Government or the State Government or the statutory authority, the Commission shall forward a copy of the report referred to in sub-section (3) to the Central Government or the State Government or the statutory authority, as the case may be.

(5) If the report of the Director General referred to in sub-section (3) recommends that there is no contravention of the provisions of this Act, the Commission shall invite objections or suggestions from the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be, on such report of the Director General.

(6) if, after consideration of the objections or suggestions referred to in sub-section (5), if any, the Commission agrees with the recommendation of the Director General, it shall close the matter forthwith and pass such orders as it deems fit and communicate its order to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be.

(7) if, after consideration of the objections or suggestions referred to in sub-section (5), if any, the Commission is of the opinion that further investigation is called for, it may direct further investigation in the matter by the Director General or cause further inquiry to be made in the matter or itself proceed with further inquiry in the matter in accordance with the provisions of this Act.

(8) If the report of the Director General referred to in sub-section (3) recommends that there is contravention of any of the provisions of this Act, and the Commission is of the opinion that further inquiry is called for, it shall inquire into such contravention in accordance with the provisions of this Act.".

20. Amendment of section 27 : In section 27 of the principal Act,—

(i) in clause (b), for the proviso, the following proviso shall be substituted, namely:—

"Provided that in case any agreement referred to in section 3 has been entered into by a cartel, the Commission may impose upon each producer, seller, distributor, trader or service provider included in

that cartel, a penalty of up to three times of its profit for each year of the continuance of such agreement or ten per cent of its turnover for each year of the continuance of such agreement, whichever is higher.";

(ii) clauses (c) and (f) shall be omitted;

(iii) in clause (g), for the word "order", the words "order or issue such directions" shall be substituted;

(iv) after clause (g), the following proviso shall be inserted, namely:—

"Provided that while passing orders under this section, if the Commission comes to a finding, that an enterprise in contravention to section 3 or section 4 of the Act is a member of a group as defined in clause (b) of the Explanation to section 5 of the Act, and other members of such a group are also responsible for, or have contributed to, such a contravention, then it may pass orders, under this section, against such members of the group.".

21. Amendment of section 28 : In section 28 of the principal Act,—

(a) in sub-section (1), for the words, brackets, letter and figures "Central Government, on recommendation under clause (f) of section 27", the word "Commission" shall be substituted;

(b) clause (d) of sub-section (2) shall be omitted.

22. Amendment of section 29 : In section 29 of the principal Act, —

(a) in sub-section (1), after the words "Where the Commission is of the", the words "prima facie" shall be inserted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) After receipt of the response of the parties to the combination under sub-section (1), the Commission may call for a report from the Director General and such report shall be submitted by the Director General within such time as the Commission may direct. ";

(c) in sub-section (2), after the words "parties to the combination", the words, brackets, figure and letter "or the receipt of the report from Director General called under sub-section (IA), whichever is later" shall be inserted.

23. Substitution of new section for section 30: For section 30 of the principal Act, the following section shall be substituted, namely: —

"30. Procedure in case of notice under sub-section (2) of section 6: Where any person or enterprise has given a notice under sub-section (2) of section 6, the Commission shall examine such notice and form its prima facie opinion as provided in sub-section (1) of section 29 and proceed as per provisions contained in that section.

24. Amendment of section 31 : In section 31 of the principal Act, in sub-section (11),—

(a) for the words, brackets and figures "ninety working days from the date of publication referred to in sub-section (2) of section 29", the words, brackets and figures "two hundred and ten days from the date of notice given to the Commission under sub-section (2) of section 6" shall be substituted;

(b) in the Explanation, for the words "ninety working" the words "two hundred and ten" shall be substituted.

25. Amendment of section 32 : In section 32 of the principal Act, after clause (f), —

(a) after the words "have power to inquire", the words and figures "in accordance with the provisions contained in sections 19, 20, 26, 29 and 30 of the Act" shall be inserted;

(b) after the words "relevant market in India", occurring at the end, the words "and pass such orders as it may deem fit in accordance with the provisions of this Act" shall be inserted.

26. Substitution of new section for section 33 : For section 33 of the principal Act, the following section shall be substituted, namely: —

“33. Power to issue interim orders: Where during an inquiry, the Commission is satisfied that an act in contravention of sub-section (1) of section 3 or sub-section (1) of section 4 or section 6 has been committed and continues to be committed or that such act is about to be committed, the Commission may, by order, temporarily restrain any party from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where it deems it necessary.”.

27. Omission of section 34 : Section 34 of the principal Act shall be omitted.

28. Amendment of section 35 : In section 35 of the principal Act, for the words “complainant or defendant”, the words “person or an enterprise” shall be substituted.

29. Substitution of new section for section 36 : For section 36 of the principal Act, the following section shall be substituted, namely: —

“36. Power of Commission to regulate its own procedure : (1) In the discharge of its functions, the Commission shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules made by the Central Government, the Commission shall have the powers to regulate its own procedure.

(2) The Commission shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit, in respect of the following matters, namely: —

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses or documents;

(e) requisitioning, subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) any public record or document or copy of such record or document from any office.

(3) The Commission may call upon such experts, from the fields of economics, commerce, accountancy, international trade or from any other discipline as it deems necessary, to assist the Commission in the conduct of any inquiry by it.

(4) The Commission may direct any person —

(a) to produce before the Director General or the Secretary or an officer authorised by it, such books or other documents in the custody or under the control of such person so directed as may be specified or described in the direction, being documents relating to any trade, the examination of which may be required for the purposes of this Act-;

(b) to furnish to the Director General or the Secretary or any other officer authorised by it, as respects the trade or such other information as may be in his possession in relation to the trade carried on by such person as may be required for the purposes of this Act.”.

30. Omission of section 37 : Section 37 of the principal Act shall be omitted.

31. Substitution of new section for section 39 : For section 39 of the principal Act, the following section shall be substituted, namely:-

“39. Execution of orders of Commission imposing monetary penalty: (1) If a person fails to pay any monetary penalty imposed on him under this Act, the Commission shall proceed to recover such penalty in such manner as may be specified by the regulations.

(2) In a case where the Commission is of the opinion that it would be expedient to recover the penalty imposed under this Act in accordance with the provisions of the Income-tax Act, 1961, (43 of 1961) it may make a reference to this effect to the concerned income-tax authority under that Act for recovery of the penalty as tax due under the said Act.

(3) Where a reference has been made by the Commission under sub-section (2) for recovery of penalty, the person upon whom the penalty has been imposed shall be deemed to be the assessee in default under the Income-tax Act, 1961 (43 of 1961) and the provisions contained in sections 221 to 227, 228A, 229, 231 and 232 of the said Act and the Second Schedule to that Act and any rules made there under shall, in so far as may be, apply as if the said provisions were the provisions of this Act and referred to sums by way of penalty imposed under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under the income-tax Act, 1961 and to the Commission instead of the Assessing Officer.

Explanation 1.- Any reference to sub-section (2) or sub-section (6) of section 220 of the Income-tax Act, 1961, (43 of 1961) in the said provisions of that Act or the rules made thereunder shall be construed as references to sections 43 to 45 of this Act.

Explanation 2. - The Tax Recovery Commissioner and the Tax Recovery Officer referred to in the Income-tax Act, 1961 (43 of 1961) shall be deemed to be the Tax Recovery Commissioner and the Tax Recovery Officer for the purposes of recovery of sums imposed by way of penalty under this Act and reference made by the Commission under sub-section (2) would amount to drawing of a certificate by the Tax Recovery Officer as far as demand relating to penalty under this Act.

Explanation 3.- Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, (43 of 1961) shall be construed as a reference to appeal before the Competition Appellate Tribunal under section 53B of this Act.".

32. Omission of section 40 : Section 40 of the principal Act shall be omitted.

33. Amendment of section 41 : In section 41 of the principal Act, the following Explanation shall be inserted, namely:—

'Explanation.— For the purposes of this section,—

(a) the words "the Central Government" under section 240 of the Companies Act, 1956 (1 of 1956) shall be construed as "the Commission";

(b) the word "Magistrate" under section 240A of the Companies Act 1956 (1 of 1956) shall be construed as "the Chief Metropolitan Magistrate, Delhi".'.

34. Substitution of new section for section 42 : For section 42 of the principal Act, the following section shall be substituted namely: —

"42. Contravention of orders of Commission : (1) The Commission may cause an inquiry to be made into compliance its orders or directions made in exercise of its powers under the Act.

(2) If any person, without reasonable cause, fails to comply with the orders or directions of the Commission issued under sections 27, 28, 31, 32, 33, 42A and 43A of the Act, he shall be punishable with fine which may extend to rupees one lakh for each day during which such non-compliance occurs, subject to a maximum of rupees ten crore, as the Commission may determine.

(3) If any person does not comply with the orders or directions issued, or fails to pay the fine imposed under sub-section (2), he shall, without prejudice to any proceeding under section 39, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to rupees twenty-five crore, or with both, as the Chief Metropolitan Magistrate, Delhi may deem fit:

Provided that the Chief Metropolitan Magistrate, Delhi shall not take cognizance of any offence under this section save on a complaint filed by the Commission or any of its officers authorised by it.".

35. Insertion of new section 42 A : After section 42 of the principal Act, the following section shall be inserted, namely:—

"42A. Compensation in case of contravention of orders of Commission: Without prejudice to the provisions of this Act, any person may make an application to the Appellate Tribunal for an order for the recovery of compensation from any enterprise for any loss or damage shown to have been suffered, by such person as a result of the said enterprise violating directions issued by the Commission or contravening, without any reasonable ground, any decision or order of the Commission issued under sections 27,28,31,32 and 33 or any condition or restriction subject to which any approval, sanction, direction or exemption in relation to any matter has been accorded, given, made or granted under this Act or delaying in carrying out such orders or directions of the Commission.".

36. Substitution of new section for section 43 : For section 43 of the principal Act, the following section shall be substituted, namely:—

"43. Penalty for failure to comply with directions of Commission and Director General: If any person fails to comply, without reasonable cause, with a direction given by —

(a) the Commission under sub-sections (2) and (4) of section 36; or

(b) the Director General while exercising powers referred to in sub-section (2) of section 41

such person shall be punishable with fine which may extend to rupees one lakh for each day during which such failure continues subject to a maximum of rupees one crore, as may be determined by the Commission."

37. Insertion of new section 43 A : After section 43 of the principal Act, the following section shall be inserted, namely:

"43A Power to impose penalty for non-furnishing of information on combinations : If any person or enterprise who fails to give notice to the Commission under sub-section (2) of section 6, the Commission shall impose on such person or enterprise a penalty which may extend to one per cent. of the total turnover or the assets, whichever is higher, of such a combination.".

38. Amendment of section 45 : In section 45 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Without prejudice to the provisions of section 44, if a person, who furnishes or is required to furnish under this Act any particulars, documents or any information,-

(a) makes any statement or furnishes any document which he knows or has reason to believe to be false in any material particular; or

(b) omits to state any material fact knowing it to be material; or

(c) wilfully alters, suppresses or destroys any document which is required to be furnished as aforesaid, such person shall be punishable with fine which may extend to rupees one crore as may be determined by the Commission.".

39. Amendment of section 46 : In section 46 of the principal Act, —

(a) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that lesser penalty shall not be imposed by the Commission in cases where the report of investigation directed under section 26 has been received before making of such disclosure.";

(b) in the second proviso, for the word "first", the word "has" shall be substituted;

(c) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that lesser penalty shall not be imposed by the Commission if the person making the disclosure does not continue to cooperate with the Commission till the completion of the proceedings before the Commission.".

40. Amendment of section 49 : In section 49 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government may, in formulating a policy on competition (including review of laws related to competition) or on any other matter, and a State Government may, in formulating a policy on competition or on any other matter, as the case may be, make a reference to the Commission for its opinion on possible effect of such policy on competition and on the receipt of such a reference, the Commission shall, within sixty days of making such reference, give its opinion to the Central Government, or the State Government, as the case may be, which may thereafter take further action as it deems fit.";

(b) in sub-section (2), after the words "Central Government", the words "or the State Government, as the case may be," shall be inserted;

(c) in sub-section (3), the words ", as may be prescribed," shall be omitted.

41. Amendment of section 51 : In section 51 of the principal Act, in sub-section (1),—

(i) clause (b) shall be omitted;

(ii) in clause (d), for the words, brackets and letters "clauses (a) to (c)", the words, brackets and letters "clauses (a) and (c)" shall be substituted.

42. Amendment of section 52 : In section 52 of the principal Act, in sub-section (2), in the Explanation, for the words "Supreme Court", the words "Appellate Tribunal or the Supreme Court" shall be substituted.

43. Insertion of new Chapter VIII - A : After Chapter VIII of the principal Act, the following Chapter shall be inserted, namely: —

'CHAPTER VIII A

COMPETITION APPELLATE TRIBUNAL

53A. Establishment of Appellate Tribunal : (1) The Central Government shall, by notification, establish an Appellate Tribunal to be known as Competition Appellate Tribunal,—

(a) to hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under sub-sections (2) and (6) of section 26, section 27, section 28, section 31, section 32, section 33, section 38, section 39, section 43, section 43A, section 44, section 45 or section 46 of this Act;

(b) to adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any finding of the Commission or under section 42A or under sub-section (2) of section 53-Q of this Act, and pass orders for the recovery of compensation under section 53N of this Act.

(2) The Headquarter of the Appellate Tribunal shall be at such place as the Central Government may, by notification, specify.

53 B. Appeal to Appellate Tribunal : (1) The Central Government or the State Government or a local authority or enterprise or any person, aggrieved by any direction, decision or order referred to in clause (a) of section 53A may prefer an appeal to the Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be filed within a period of sixty days from the date on which a copy of the direction or decision or order made by the Commission is received by the Central Government or the State Government or a local authority or enterprise or any person referred to in that sub-section and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the direction, decision or order appealed against.

(4) The Appellate Tribunal shall send a copy of every order made by it to the Commission and the parties to the appeal.

(5) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal within six months from the date of receipt of the appeal.

53C. Composition of appellate Tribunal : The Appellate Tribunal shall consist of a Chairperson and not more than two other Members to be appointed by the Central Government.

53D. Qualifications for appointment of Chairperson and Members of Appellate Tribunal : (1) The Chairperson of the Appellate Tribunal shall be a person, who is, or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

(2) A Member of the Appellate Tribunal shall be a person of ability, integrity and standing having special knowledge of, and professional experience of not less than twenty-five years in, competition matters, including competition law and policy, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs, administration or in any other matter which in the opinion of the Central Government, may be useful to the Appellate Tribunal.

53E. Selection Committee : (1) The Chairperson and Members of the Appellate Tribunal shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of—

(a) the Chief Justice of India or his nominee……………………….Chairperson;

(b) the Secretary in the Ministry of Corporate Affairs……………………….Member;

(c) the Secretary in the Ministry of Law and Justice……………………….Member.

(2) The term of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed.

53F. Term of office of Chairperson and Members of Appellate Tribunal : The Chairperson or a Member of the Appellate Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, and shall be eligible for re-appointment:

Provided that no Chairperson or other Member of the Appellate Tribunal shall hold office as such after he has attained,—

(a) in the case of the Chairperson, the age of sixty-eight years;

(b) in the case of any other Member of the Appellate Tribunal, the age of sixty-five years.

53G. Terms and conditions of service of Chairperson and Members of Appellate Tribunal : (1) The salaries and allowances and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed.

(2) The salaries, allowances and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall not be varied to their disadvantage after their appointment.

53H. Vacancies : If, for any reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

53-I. Resignation of Chairperson and Members of Appellate Tribunal : The Chairperson or a Member of the Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or a Member of the Appellate Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

53J. Member of Appellate Tribunal to act as its Chairperson in certain cases : (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the Appellate Tribunal by reason of his death or resignation, the senior-most Member of the Appellate Tribunal shall act as the Chairperson of the Appellate Tribunal until the date on which a new Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the Chairperson of the Appellate Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member or, as the case may be, such one of the Members of the Appellate Tribunal, as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

53K. Removal and suspension of Chairperson and Members of Appellate Tribunal : (1) The Central Government may, in consultation with the Chief Justice of India, remove from office the Chairperson or any other Member of the Appellate Tribunal, who —

(a) has been adjudged an insolvent; or

(b) has engaged at any time, during his term of office, in any paid employment; or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has become physically or mentally incapable of acting as such Chairperson or other Member of the Appellate Tribunal; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member of the Appellate Tribunal; or

(f) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), no Chairperson or a Member of the Appellate Tribunal shall be removed from his office on the ground specified in clause (e) or clause (f) of sub-section (1) except by an order made by the Central Government after an inquiry made in this behalf by a Judge of the Supreme Court in which such Chairperson or Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

53L. Restriction on employment of Chairperson and other Members of Appellate Tribunal in certain cases : The Chairperson and other Members of the Appellate Tribunal shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any enterprise which has been a party to a proceeding before the Appellate Tribunal under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956. (1 of 1956)

53M. Staff of Appellate Tribunal :(1) The Central Government shall provide the Appellate Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence and control of the Chairperson of the Appellate Tribunal.

(3) The salaries and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal shall be such as may be prescribed.

53N. Awarding compensation :(1) Without prejudice to any other provisions contained in this Act, the Central Government or a State Government or a local authority or any enterprise or any person may make an application to the Appellate Tribunal to adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any finding of the Commission or under section 42A or under sub-section (2) of section 53-Q of the Act, and to pass an order for the recovery of compensation from any enterprise for any Loss or damage shown to have been suffered, by the Central Government or a State Government or a local authority or any enterprise or any person as a result of any contravention of the provisions of Chapter II, having been committed by the enterprise.

(2) Every application made under sub-section (1) shall be accompanied by the findings of the Commission, if any, and also be accompanied with such fees as may be prescribed.

(3) The Appellate Tribunal may, after an inquiry made into the allegations mentioned in the application made under sub-section (1), pass an order directing the enterprise to make payment to the applicant, of the amount determined by it as realisable from the enterprise as compensation for the loss or damage caused to the applicant as a result of any contravention of the provisions of Chapter II having been committed by such enterprise:

Provided that the Appellate Tribunal may obtain the recommendations of the Commission before passing an order of compensation.

(4) Where any loss or damage referred to in sub-section (1) is caused to numerous persons having the same interest, one or more of such persons may, with the permission of the Appellate Tribunal, make an application under that sub-section for and on behalf of, or for the benefit of, the persons so interested, and thereupon, the provisions of rule 8 of Order 1 of the First Schedule to the Code of Civil Procedure, 1908, (5 of 1908) shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to the application before the Appellate Tribunal and the order of the Appellate Tribunal thereon.

Explanation.— For the removal of doubts, it is hereby declared that —

(a) an application may be made for compensation before the Appellate Tribunal only after either the Commission or the Appellate Tribunal on appeal under clause (a) of sub-section (1) of section 53A of the Act, has determined in a proceeding before it that violation of the provisions of the Act has taken place, or if provisions of section 42A or sub-section (2) of section 53Q of the Act are attracted.

(b) enquiry to be conducted under sub-section (3) shall be for the purpose of determining the eligibility and quantum of compensation due to a person applying for the same, and not for examining afresh the findings of the Commission or the Appellate Tribunal on whether any violation of the Act has taken place.

53-O. Procedure and powers of Appellate Tribunal : (1) The Appellate Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, (5 of 1908) but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules made by the Central Government, the Appellate Tribunal shall have power to regulate its own procedure including the places at which they shall have their sittings.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing a representation for default or deciding it ex parte;

(h) setting aside any order of dismissal of any representation for default or any order passed by it ex parte;

(i) any other matter which may be prescribed.

(3) Every proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196, (45 of 1860)of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

53P. Execution of orders of Appellate Tribunal :(l) Every order made by the Appellate Tribunal shall be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send, in case of its inability to execute such order, to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of the company is situated; or

(b) in the case of an order against any other person, place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

53-Q. Contravention of orders of Appellate Tribunal :(1) Without prejudice to the provisions of this Act, if any person contravenes, without any reasonable ground, any order of the Appellate Tribunal, he shall be liable for a penalty of not exceeding rupees one crore or imprisonment for a term up to three years or with both as the Chief Metropolitan Magistrate, Delhi may deem fit:

Provided that the Chief Metropolitan Magistrate, Delhi shall not take cognizance of any offence punishable under this sub-section, save on a complaint made by an officer authorised by the Appellate Tribunal.

(2) Without prejudice to the provisions of this Act, any person may make an application to the Appellate Tribunal for an order for the recovery of compensation from any enterprise for any loss or damage shown to have been suffered, by such person as a result of the said enterprise contravening, without any reasonable ground, any order of the Appellate Tribunal or delaying in carrying out such orders of the Appellate Tribunal.

53R. Vacancy in Appellate Tribunal not to invalidate acts or proceedings : No act or proceeding of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of existence of any vacancy or defect in the constitution of the Appellate Tribunal.

53-S. Right to legal representation :(1) A person preferring an appeal to the Appellate Tribunal may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or Legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

(2) The Central Government or a State Government or a local authority or any enterprise preferring an appeal to the Appellate Tribunal may authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal.

(3) The Commission may authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal.

Explanation.— The expressions "chartered accountant" or "company secretary" or "cost accountant" or "legal practitioner" shall have the meanings respectively assigned to them in the Explanation to section 35.

53T. Appeal to Supreme Court : The Central Government or any State Government or the Commission or any statutory authority or any local authority or any enterprise or any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to them:

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed after the expiry of the said period of sixty days.

53U. Power to Punish for contempt : The Appellate Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971) shall have effect subject to modifications that,

(a) the reference therein to a High Court shall be construed as including a reference to the Appellate Tribunal;

(b) the references to the Advocate-General in section 15 of the said Act shall be construed as a reference to such Law Officer as the Central Government may, by notification, specify in this behalf.

44. Amendment of section 57 : In section 57 of the principal Act, for the words "the Commission", the words "the Commission or the Appellate Tribunal" shall be substituted.

45. Substitution of new section for section 58 : For section 58 of the principal Act, the following section shall be substituted, namely:—

"58. Chairperson, Members, Director General, Secretary, officers and other employees, etc., to be public servants: The Chairperson and other Members and the Director General, Additional, Joint, Deputy or Assistant Directors General and Secretary and officers and other employees of the Commission and the Chairperson, Members, officers and other employees of the Appellate Tribunal shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 (45 of 1860) of the Indian Penal Code.".

46. Amendment of section 59 : In section 59 of the principal Act, for the words "the Registrar or officers or other employees of the Commission", the words "the Secretary or officers or other employees of the Commission or the Chairperson, Members, officers and other employees of the Appellate Tribunal" shall be substituted.

47. Amendment of section 61 : In section 61 of the principal Act, for the word "Commission", the words "Commission or the Appellate Tribunal" shall be substituted.

48. Amendment of section 63 : In section 63 of the principal Act, in sub-section (2), —

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) the term of the Selection Committee and the manner of selection of panel of names under sub-section (2) of section 9;";

(ii) clause (c) shall be omitted;

(iii) after clause (d), the following clause shall be inserted, namely: —

"(da) the number of Additional, Joint, Deputy or Assistant Directors General or such officers or other employees in the office of Director General and the manner in which such Additional, Joint, Deputy or Assistant Directors General or such officers or other employees may be appointed under sub-section (IA) of section 16;";

(iv) in clauses (e) and (f), for the words "such other advisers, consultants or officers", the words "such officers or other employees" shall be substituted;

(v) in clause (g), for the word "Registrar", the word "Secretary" shall be substituted;

(vi) clauses (h), (i) and (j) shall be omitted;

(vii) after clause (m), the following clauses shall be inserted, namely: —

"(ma) the form in which an appeal may be filed before the Appellate Tribunal under sub-section (2) of section 53B and the fees payable in respect of such appeal;

(mb) the term of the Selection Committee and the manner of selection of panel of names under sub-section (2) of section 53E;

(mc) the salaries and allowances and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal under sub- -section (1) of section 53G;

(md) the salaries and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal under sub-section (3) of section 53M;

(me) the fee which shall be accompanied with every application made under sub-section (2) of section 53N;

(mf) the other matters under clause (i) of sub-section (2) of section 53-O in respect of which the Appellate Tribunal shall have powers under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit;"

(viii) for clause (n), the following clause shall be substituted, namely:—

"(n) the manner in which the monies transferred to the Competition Commission of India or the Appellate Tribunal shall be dealt with by the Commission or the Appellate Tribunal, as the case may be, under the fourth proviso to sub-section (2)'of section 66.".

49. Amendment of section 64 : In section 64 of the principal Act, in sub-section (2), for clauses (d) and (e), the following clauses shall be substituted, namely:—

"(d) the procedures to be followed for engaging the experts and professionals under sub-section (3) of section 17;

(e) the fee which may be determined under clause (a) of sub-section (1) of section 19;

(f) the rules of procedure in regard to the transaction of business at the meetings of the Commission under sub-section (I) of section 22;

(g) the manner in which penalty shall be recovered under sub-section (1) of section 39;

(h) any other matter in respect of which provision is to be, or may be, made by regulations.".

50. Amendment of section 66 : In section 66 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:-

(1) The Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) is hereby repealed and the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the said Act (hereafter referred to as the repealed Act) shall stand dissolved:

Provided that, notwithstanding anything contained in this sub-section, the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the repealed Act may continue to exercise jurisdiction and power under the repealed Act for a period of two years from the date of the commencement of this Act in respect of all cases or proceedings (including complaints received by it or references or applications made to it) filed before the commencement of this Act as if the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) had not been repealed and all the provisions of the said Act so repealed shall mutatis mutandis apply to such cases or proceedings or complaints or references or applications and to all other matters.

Explanation.- For the removal of doubts, it is hereby declared that nothing in this proviso shall confer any jurisdiction or power upon the Monopolies and Restrictive Trade Practices Commission to decide or adjudicate any case or proceeding arising under the Monopolies and Restrictive Trade Practices Act, 1969 on or after the commencement of this Act.

(1A) The repeal of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) shall, however, not affect,—

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed; or

(d) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty, confiscation or punishment may be imposed or made as if that Act had not been repealed.".

(b) in sub-section (2), —

(i) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that the Director General of Investigation and Registration, Additional, Joint, Deputy or Assistant Directors General of Investigation and Registration or any officer or other employee who has been, immediately before the dissolution of the Monopolies and Restrictive Trade Practices Commission employed on regular basis by the Monopolies and Restrictive Trade Practices Commission, shall become, on and from such dissolution, the officer and employee, respectively, of the Competition Commission of India or the Appellate Tribunal, in such manner as may be specified by the Central Government, with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him if the rights in relation to such Monopolies and Restrictive Trade Practices Commission had not been transferred to, and vested in, the Competition Commission of India or the Appellate Tribunal, as the case may be, and shall continue to do so unless and until his employment in the Competition Commission of India or the Appellate Tribunal, as the case may be, is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Competition Commission of India or the Appellate Tribunal, as the case may be;";

(ii) in the third proviso, for the words “the Central Government”, the words “the Competition Commission of India or the Appellate Tribunal, as the case may be,” shall be substituted;

(iii) in the fourth proviso,—

(A) for the words “the Central Government shall, out of the monies standing”, the words “the Competition Commission of India or the Appellate Tribunal, as the case may be, shall, out of the monies standing” shall be substituted;

(B) for the portion beginning with the words “the Central Government and such monies” and ending with the words “as may be prescribed” the following shall be substituted, namely:—

“the Competition Commission of India or the Appellate Tribunal, as the case may be, and such monies which stand so transferred shall be dealt with by the said Commission or the Tribunal, as the case may be, in such manner as may be prescribed”;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) All cases pertaining to monopolistic trade practices or restrictive trade practices pending (including such cases, in which any unfair trade practice has also been alleged), before the Monopolies and Restrictive Trade Practices Commission shall, after the expiry of two years referred to in the proviso to sub-section (1),\ stand transferred to the Appellate Tribunal and shall be adjudicated by the Appellate Tribunal in accordance with the provisions of the repealed Act as if that Act had not been repealed.”.

(d) in sub-section (4), for the words “on or before the commencement of this Act shall, on such commencement”, the words, brackets and figure “on or before the expiry of two years referred to in the proviso to sub-section (1),” shall be substituted;

(e) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) All cases pertaining to unfair trade practices referred to in clause (x) of sub-section (1) of section 36A of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) and pending before the Monopolies and Restrictive Trade Practices Commission shall, after the expiry of two years referred to in the proviso to sub-section (1), stand transferred to the Appellate Tribunal and the Appellate Tribunal shall dispose of such cases as if they were cases filed under that Act.”.

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ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 58 ಕೇಶಾಪ್ರ 2007 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ನವೆಂಬರ್ 2007

2007ನೇ ಸಾಲಿನ ಅಕ್ಟೋಬರ್ 1ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Carriage by Road Act, 2007 (Act No. 41 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE CARRIAGE BY ROAD ACT, 2007

AN

ACT

to provide for the regulation of common carriers, limiting their liability and declaration of value of goods delivered to them to determine their liability for loss of, or damage to, such goods occasioned by the negligence or criminal acts of themselves, their servants or agents and for matters connected therewith or incidental thereto

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

1. Short title and commencement : (1) This Act may be called the carriage by Road Act, 2007.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions : In this Act, unless the context otherwise requires,—

(a) "common carrier" means a person engaged in the business of collecting, storing, forwarding for distributing goods to be carried by goods carriages under a goods receipt or transporting for hire of goods from place to place by motorised transport on road, for all persons undiscriminatingly and includes a goods booking company, contractor, agent, broker and courier agency engaged in the door-to-door transportation of documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles, but does not include the Government;

(b) "consignee" means the person named as consignee in the goods forwarding note;

(c) "consignment" means documents, goods or articles entrusted by the consignor to the common carrier for carriage, the description or details of which are given in the goods forwarding note;

(d) "consignor" means a person, named as consignor in the goods forwarding note, by whom or on whose behalf the documents, goods or articles covered by such forwarding note are entrusted to the common carrier for carriage thereof,

(e) "goods" includes—

(i) containers, pallets or similar articles of transport used to consolidate goods;- and

(ii) animals or livestock;

(iii) "goods forwarding note" means the document executed under section 8;

(g) "goods receipt" means the receipt issued under section 9;

(h) "person" includes any association or body of persons, whether incorporated or not, a road transport booking company, contractor and an agent or a broker carrying on the business of a common carrier;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "registering authority" means a State Transport Authority or a Regional Transport Authority constituted under section 68 of the Motor Vehicles Act, 1988; (59 of 1988)

(k) "registration" means the registration granted or renewed under sub-section (5) of section 4.

3. Persons not to engage in business of common carrier without registration : (1) No person shall engage in the business of a common carrier, after the commencement of this Act, unless he has been granted a certificate of registration.

(2) Any person who is engaged, whether wholly or partly, in the business of a common carrier, immediately before the commencement of this Act, shall,—

(a) apply for a registration within ninety days from the date of such commencement;

(b) cease to engage in such business on the expiry of one hundred and eighty days from the date of such commencement unless he has applied for registration and the certificate of registration has been granted by the registering authority.

4. Application for grant or renewal of registration : (1) Any person, who is engaged or intends to engage in the business of a common carrier, shall apply for the grant or renewal of a certificate of registration for carrying on the business of common carrier to the registering authority.

(2) An application under sub-section (1) shall be made, to the registering authority having jurisdiction in the area in which the applicant resides or has his principal place of business stating that the application is for the main office, in such form and manner and accompanied by such fees payable to the registering authority as may be prescribed.

(3) An application for grant or renewal of certificate of registration for the main office shall contain the details of branch office, if any, to be operated outside the jurisdiction of the State or Union territory in which the main office is to be registered in such form and manner as may be prescribed:

Provided that an application for the purpose to open or close a branch office shall be made to the registering authority having jurisdiction over the main office.

(4) A registering authority shall, before granting or renewing a certificate of registration, satisfy itself that the applicant fulfills such conditions as may be prescribed.

(5) The registering authority may, on receipt of an application under sub-section (2) or sub-section (3) and after satisfying itself that the applicant fulfills the requirements of sub-section (4), grant the certificate of registration or renew it, as the case may be, for carrying on the business of a common carrier, in such form and subject to such conditions as may be prescribed:

Provided that no application for the grant or renewal of a certificate of registration shall be refused by the registering authority unless the applicant has been given an opportunity of being heard and the reasons for such refusal are given in writing by the registering authority within sixty days from the date of receipt of such application:

Provided further that if such refusal has not been communicated within sixty days of the date of application, the registering authority shall grant or renew certificate of registration within a further period of thirty days.

(6) A certificate of registration granted or renewed under sub-section (5) shall contain the details of branch offices to be operated in various States and Union territories, and shall be valid for a period of ten years from the date of such grant or renewal, as the case may be: -

Provided that in the case of registration in respect of branch offices referred to in sub-section (3), the validity of such registration shall be restricted to the validity of the registration granted in respect of the main office.

(7) The holder of a certificate of registration shall—

(a) maintain a register in such form and manner as may be prescribed;

(b) for shifting the main office mentioned in the certificate of registration submit an application to the registering authority which granted the certificate of registration:

Provided that such registering authority shall grant or refuse permission for shifting the main office within thirty days from the date of receipt of such application and that no application for shifting the main office shall be refused unless the applicant has been given an opportunity of being heard and reasons for such refusal are given in writing by the registering authority:

Provided further that in case the registering authority has not either granted or refused the permission within thirty days it shall be deemed that the permission for shifting has been granted.

(c) submit to the registering authority under whose jurisdiction the main office is located and the Transport Research Wing of the Ministry or Department of the Central Government dealing with road transport and highways such information and return as may be prescribed within one hundred and twenty days after the thirty-first day of March every year;

(d) display at a prominent place in its or its main office and each branch office, if any, a certificate of registration in original or certified copy thereof attested by the concerned registering authority, a notary or a Gazetted Officer of the Central or State Government.

(8) A common carrier shall not load the motor vehicle beyond the gross vehicle weight mentioned in the registration certificate whose registration number is mentioned in the goods forwarding note or goods receipt, and the common carrier shall not allow such vehicle to be loaded beyond the gross vehicle weight.

5. Suspension or cancellation of registration : (1) If the registering authority is satisfied that the holder of certificate of registration has failed to comply with any of the provisions of sub-section (7) of section 4, it may give a notice by registered post or through electronic media or by any verifiable means to the holder of certificate of registration to rectify within a period of thirty days and in case such a holder fails to do so, it may revoke the certificate of registration on completion of enquiry.

(2) If a complaint is received by the registering authority against a common carrier from a consignor in respect of,-

(i) non-issuance of receipt of goods;

(ii) non-disclosure of the whereabouts of the goods in transit when asked by the consignor or consignee; or

(iii) detention of goods for delivery without valid reasons; or

(iv) demand for unreasonable additional charges at the time of delivery, which were neither disclosed nor agreed upon between the consignor and the consignee earlier; or

(v) non-payment of charges agreed and payable to truck-owners,

it may give a notice by registered post or through electronic media or by any other verifiable means to the holder of certificate of registration to rectify the same within a period of thirty days and in case such holder fails to do so, it may revoke certificate of registration for a period as may be prescribed under the rules on completion of that enquiry.

(3) If the registering authority or any other authority so authorised under the Motor Vehicles Act, 1988 (59 of 1988) has received proof of violation of provision of sub-section (8) of section 4, it shall be competent to impose the penalty prescribed under section 194 of the Motor Vehicles Act, 1988 on the common carrier, notwithstanding the fact that such penalty have been already imposed on and realised from the driver or the owner of the goods vehicle or the consignor, as the case may be.

(4) Any action for revocation of certificate of registration shall not be taken under sub-sections (1) and (2) unless the holder of the certificate of registration is given an opportunity of being heard in the enquiry and reasons for such action are given in writing by the registering authority.

(5) The registering authority in whose jurisdiction the main office of the common carrier is located shall be competent to take action under sub-sections (1) and (2) and any other registering authority who has noticed the violations or has received complaints under the said sub-sections, shall report such matter to the registering authority having jurisdiction over the main office.

(6) When the certificate of registration is revoked, the holder of the certificate of registration shall surrender the certificate of registration to the registering authority within a period of thirty days and it would be incumbent on the holder of the certificate of registration to complete the delivery and transactions in respect of the consignments already accepted by the common carrier from any consignor prior to the revocation of the certificate of registration.

(7)The holder of a certificate of registration may, at any time, surrender the certificate to the registering authority which granted the registration and on such surrender the registering authority shall,

after obtaining declaration from the holder of the certificate of registration that no liability is outstanding against him and that he shall discharge such liability, if held liable, revoke the certificate of registration:

Provided that if the surrender is in respect of a branch office, the endorsement in respect of the branch office shall be deleted from the certificate of registration and such deletion shall be notified by the registering authority having jurisdiction over the main office to such other authorities as may be prescribed.

6. Appeal : (1) Any person aggrieved by an order of the registering authority refusing to grant or renew a certificate of registration or suspending or revoking a registration under this Act, may, within sixty days from the date of such order, appeal to the State Transport Appellate Tribunal constituted under sub-section (2) of section 89 of the Motor Vehicles Act, 1988 (59 of 1988).

(2) An appeal under sub-section (1) shall be preferred in duplicate in the form of a memorandum setting forth the grounds of objection to the order of the registering authority and shall be accompanied by such fee as may be prescribed.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the provisions of sub-sections (1) and (2) of section 89 of the Motor Vehicles Act, 1988 (59 of 1988) as in force immediately before the commencement of this Act, with regard to appeal, shall, as far as may, apply to every appeal as if the provisions aforesaid were enacted by this Act subject to the modification that any reference therein to the "permit" shall be construed as a reference to the "registration".

7. Submission of annual return : The State Transport Authority in respect of each State or Union territory shall submit annually to the Ministry or Department of the Central Government dealing with road transport and highways a consolidated annual return giving the details of the goods carried by the common carriers in that State or the Union territory, as the case may be, on the basis of the returns received from the holders of the registration as specified under clause (c) of sub-section (7) of section 4

8. Goods forwarding note :(1) Every consignor shall execute a goods forwarding note, in such form and manner as may be prescribed, which shall include a declaration about the value of the consignment and goods of dangerous or hazardous nature.

(2) The consignor shall be responsible for the correctness of the particulars furnished by him in the goods forwarding note.

(3) The consignor shall indemnify the common carrier against any damage suffered by him by reason of incorrectness or incompleteness of the particulars on the goods forwarding note.

9. Goods receipt : (1) A common carrier shall,—

(a) in case where the goods are to be loaded by the consignor, on the completion of such loading; or

(b) in any other case, on the acceptance of the goods by him, issue a goods receipt in such form and manner as may be prescribed.

(2) The goods receipt shall be issued in triplicate and the original shall be given to the consignor.

(3) The goods receipt shall be prima facie evidence of the weight or measure and other particulars of the goods and the number of packages stated therein.

(4) The goods receipt shall include an undertaking by the common carrier about the liability under section 10 or section 11.

10. Liability of common carrier : (1) The liability of the common carrier for loss of, or damage to any consignment, shall be limited to such amount as may be prescribed having regard to the value, freight and nature of goods, documents or articles of the consignment, unless the consignor or any person duly

authorised in that behalf have expressly undertaken to pay higher risk rate fixed by the common carrier under section 11.

(2) The liability of the common carrier in case of any delay up to such period as may be mutually agreed upon by and between the consignor and the common carrier and specifically provided in the goods forwarding note including the consequential loss or damage to such consignment shall be limited to the amount of freight charges where such loss, damage or delay took place while the consignment was under the charge of such carrier:

Provided that beyond the period so agreed upon in the goods forwarding note, compensation shall be payable in accordance with sub-section (1) or section 11:

Provided further that the common carrier shall not be liable if such carrier proves that such loss of, or damage to, the consignment or delay in delivery thereof, had not taken place due to his fault or neglect or that of his servants or agents thereof.

11. Rates of charge to be fixed by common carrier for carriage of consignment at a higher risk rate : Every common carrier may require payment for the higher risk undertaken by him in carrying a particular consignment at such rate of charge as he may fix and correspondingly, his liability would be in accordance with the terms as may be agreed upon with the consignor:

Provided that to entitle such carrier to claim payment at a rate higher than his ordinary rate of charge, he should have exhibited a printed or written notice, in English and the vernacular language of the State, of the higher rate of charge in the place or premises where he carries on the business of common carrier.

12. Conditions limiting exonerating the liability of the common carrier : (1) Every common carrier shall be liable to the consignor for the loss or damage to any consignment in accordance with the goods forwarding note, where such loss or damage has arisen on account of any criminal act of the common carrier, or any of his servants or agents.

(2) In any suit brought against the common carrier for the loss, damage or non-delivery of consignment, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the common carrier, or any of his servants or agents.

(3) Where any consignment has been detained for examination or scrutiny by a competent authority and upon such examination or scrutiny it is found that certain prohibited goods or goods on which due tax was not paid or insufficiently paid have been entrusted to the common carrier by the consignor which have not been described in the goods forwarding note, the cost of such examination or scrutiny shall be borne by the consignor and the common carrier shall not be liable for any loss, damage or deterioration caused by such detention of the consignment for examination or scrutiny:

Provided that the onus of proving that such incorrect description of goods in the goods forwarding note was received from the consignor shall be on the common carrier.

Explanation.- For the purposes of this section, “competent authority” means my person or authority who is empowered to examine or scrutinise goods by or under any law for the time being in force to secure compliance of provisions of that taw.

13. Provision for carriage of goods of dangerous or hazardous nature to human life :

(1) No goods of dangerous or hazardous nature to human life shall be carried by a common carrier except in accordance with such procedure and after complying with such safeguards as may be prescribed.

(2) The Central Government may, by rules made in this behalf, specify the goods of dangerous or hazardous nature to human life and the label or class of labels to be carried in, or displayed on, the motor vehicle or such goods in the course of transportation.

(3) Notwithstanding anything contained in any other law for the time being in force, every common carrier shall scrutinise and ensure before starting transportation of any consignment containing goods of dangerous or hazardous nature to human life that, the consignment is covered by, one or more insurance policies under a contract of insurance in respect of such goods providing relief in case of death or injury to a person or damage to any property or the consignment, if an accident takes place.

14. Power of Central Government to prohibit carriage of certain class of goods : The Central Government may, by notification in the Official Gazette, specify, in public interest, the goods or class or classes of goods which shall not be carried by a common carrier.

15. Right of common carrier in case of consignee's default : (1) If the consignee fails to take delivery of any consignment of goods within a period of thirty days from the date of notice given by the common carrier, such consignment may be deemed as unclaimed:

Provided that in case of perishable consignment, the period of thirty days shall not apply and the consignment shall be deemed unclaimed after a period of twenty-four hours of service of notice or any lesser period as may be mutually agreed to by and between the common carrier and the consignor.

(2) In the case of an unclaimed consignment under sub-section (1), the common carrier may,—

(a) if such consignment is perishable in nature, have the right to sell the consignment; or

(b) if such consignment is not perishable in nature, cause a notice to be served upon the consignee or upon the consignor if the consignee is not available, requiring him to remove the goods within a period of fifteen days from the date of receipt of the notice and in case of failure to comply with the notice, the common carrier shall have the right to sell such consignment without any further notice to the consignee or the consignor, as the case may be.

(3) The common carrier shall, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight, storage and other charges due including expenses incurred for the sale, and the surplus, if any, from such sale proceeds shall be returned to the consignee or the consignor, as the case may be.

(4) Unless otherwise agreed upon between the common carrier and consignor, the common carrier shall be entitled to detain or dispose off the consignment in part or full to recover his dues in the event of the consignee failing to make payment of the freight and other charges payable to the common carrier at the time of taking delivery.

16. Notice for institution of a suit : No suit or other legal proceeding shall be instituted against a common carrier for any loss of, or damage to, the consignment, unless notice in writing of the loss or damage to the consignment has been served on the common carrier before the institution of the suit or other legal proceeding and within one hundred and eighty days from the date of booking of the consignment by the consignor.

17.General responsibility of common carrier : Save as otherwise provided in this Act, a common carrier shall be responsible for the loss, destruction, damage or deterioration in transit or non-delivery of any consignment entrusted to him for carriage, arising from any cause except the following, namely:

(a) act of God;

(b) act of war or public enemy;

(c) riots and civil commotion;

(d) arrest, restraint or seizure under legal process;

(e) order or restriction or prohibition imposed by the Central Government or a State Government or by an officer or authority subordinate to the Central Government or a State Government authorised by it in this behalf:

Provided that the common carrier shall not be relieved of its responsibility for the loss, destruction, damage, deterioration or non-delivery of the consignment if the common carrier could have avoided such loss, destruction, damage or deterioration or non-delivery had the common carrier exercised due deligence and care in the carriage of the consignment.

18. Punishment for contravention in relation to non-registration, carrying goods of dangerous or hazardous nature, or prohibited goods : (1) Whoever contravenes the provisions of section 3, section 13 or a notification issued under section 14 shall be punishable for the first offence with fine which may extend to five thousand rupees, and for the second or subsequent offence with fine which may extend to ten thousand rupees.

(2) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be proceeded against and punished accordingly.

Explanation. -For the purpose of this section,—-.

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

19. Composition of offences : (1) Any offence committed under section 18, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify.

(2) Where an offence has been compounded under sub-section (1), the offender shall be discharged and no further proceedings shall be taken against him in respect of such offence.

20. Power to make rules : (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:.—

(a) the form and manner of making an application for grant or renewal of a certificate of registration for main office or branch office and the fee thereof under sub-sections (2) and (3) of section 4;

(b) the other conditions of eligibility which are required to be fulfilled by an applicant under clause (d) of sub-section (4) of section 4;

(c) the form in which and the conditions subject to which certificate of registration or renewal may be granted under sub-section (5) of section 4;

(d) the form and manner of maintaining a register under clause (a) of sub-section (7) of section 4;

(e) the information and return which may be furnished to the registering authority and the transport research wing under clause (c) of sub-section (7) of section 4;

(f) fee for submitting the memorandum of appeal under sub-section (2) of section 6;

(g) the form and manner in which a goods forwarding note shall be executed by the consignor under sub-section (1) of section 8;

(h) the form and manner in which a common carrier shall issue goods receipt under sub-section (1) of section 9;

(i) liability of the common carrier for loss of, or damage to any consignment under sub-section (1) of section 10;

(j) the procedure and safeguards to be complied with for carrying goods of dangerous or hazardous nature under sub-section (1) of section 13;

(k) the specification of the goods of dangerous or hazardous nature to human life and the label or class of labels to be carried or displayed in or on the motor vehicle or on such goods in the course of their transportation under sub-section (2) of section 13; and

(l) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section and every notification issued under section 14 shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the notification, or both Houses agree that the rule or the notification should not be made or issued, the rule or the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

21. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of Parliament.

22. Repeal and saving : (1) The Carriers Act, 1865, (3 of 1865) is hereby repealed.

(2) Notwithstanding the repeal of the Carriers Act, 1865, (3 of 1865) anything done or any action taken under the said Act shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

(3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals.

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ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
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ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 61 ಕೇಶಾಪ್ರ 2007 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ನವೆಂಬರ್ 2007

2007ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 17ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Inland Vessels (Amendment) Act, 2007 (Act No. 35 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE INLAND VESSELS (AMENDMENT) ACT, 2007

AN

ACT

further to amend the Inland Vessels Act, 1917.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :

1. Short title and commencement : (1) This Act may be called the Inland Vessels (Amendment) Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazettee, appoint.

2. Amendment of section 1 : In Section 1 of the Inland Vessels Act, 1917 (1 of 1917) (hereinafter referred to as the principal Act), in sub-section (2), the proviso shall be omitted.

3. Amendment of section 2 : In section 2 of the principal Act, in sub-section (1),—

(i) for clauses (a), (b) and (c), the following clauses shall, respectively, be substituted, namely:—

'(a) "inland vessel" or "inland mechanically propelled vessel" means a mechanically propelled vessel, which ordinarily plies on inland water, but does not include fishing vessel and a ship registered under the Merchant Shipping Act, 1958 (44 of 1958);

(b) "inland water" means—

(i) any canal, river, lake or other navigable water within a State,

(ii) any area of any tidal water deemed to be the inland water as defined by the Central Government under section 70,

(iii) waters declared by the Central Government to be smooth and partially smooth waters under clause (41) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958);

(c) "mechanically propelled vessel" means every description of vessel propelled wholly or in part by electricity, steam or other mechanical power including dumb vessel towed by the mechanically propelled vessel and vessel propelled by outboard motor;';

(ii) after clause (g), the following clause shall be inserted, namely:—

'(ga) "tidal water" has the meaning assigned to it in clause (49) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958);'.

4. Amendment of section 3 : In section 3 of the principal Act, in sub-section (1),—

(i) for the words "and applicable to such voyage or service", the words "in the zone intended for operation and applicable to such voyage or service in such zone" shall be substituted;

(ii) the following Explanation shall be inserted at the end, namely:—

'Explanation.—For the purposes of this sub-section, "zone" means any such inland water area as the State Government may, depending on the maximum significant wave height criteria, by notification in the Official Gazette, specify for the purposes of this Act.'.

5. Insertion of new section 9A : After section 9 of the principal Act, the following section shall be inserted, namely:—

"9A. Temporary permit : The surveyor who conducted the survey may, without following the procedure laid down in section 9, grant a permit to be effective for a period which shall not in any case exceed forty-five days, to authorise the inland mechanically propelled vessel to proceed on voyage or use in service temporarily pending the issue of the certificate of survey.".

6. Amendment of section 19I : In section 19I of the principal Act, in sub-section (3), for the words "twelve months", the words "thirty-six months" shall be substituted.

7. Amendment of section 22 : In section 22 of the principal Act,—

(i) in sub-section (1), for the words and figures "an inland mechanically propelled vessel for a period of three years before the first day of November, 1956", the words "a vessel of the Coast Guard, Indian Navy or regular Army for a period as may be prescribed by the State Government in this behalf' shall be substituted;

(ii) after sub-section (1), the following Explanation shall be inserted at the end, namely:—

'Explanation.—For the purposes of this section,—

(a) the expression "Coast Guard" shall have the meaning assigned to it in clause (d) of section 2 of the Coast Guard Act, 1978 (30 of 1978);

(b) the expression "Indian Navy" shall have the meaning assigned to it in clause (10) of section 3 of the Navy Act, 1957 (62 of 1957);

(c) the expression "regular Army" shall have the meaning assigned to it in clause (xxi) of section 3 of the Army Act, 1950(46 of 1950)'.

8. Amendment of section 30 : In section 30 of the principal Act, clause (a) shall be re-lettered as clause (aa), and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—

"(a) the period of service in the Coast Guard, Indian Navy or regular Army which is required for a person to be granted a certificate without examination under section 22,".

9. Substitution of new section for section 31 : For section 31 of the principal Act, the following section shall be substituted, namely:—

"31. Effect of certificates of competency or service and licences : A certificate of competency or service and licence granted under this Chapter shall have effect throughout India.".

10. Amendment of section 52 : In section 52 of the principal Act, in sub-section (2),—

(a) in clause (i), the word "and" occurring at the end shall be omitted;

(b) after clause (j), the following clauses shall be inserted, namely:—

"(k) prescribe the requirements that the hull, equipment and machinery of inland mechanically propelled vessel shall comply with;

(l) prescribe the requirement of life saving appliances; and

(m) prescribe the apparatus required for communication and navigation.".

11. Substitution of new section for section 54 C : For section 54C of the principal Act, the following section shall be substituted, namely:—

'54C. Application of section 134, Chapters X, XI and XII of the Motor Vehicles Act 1988 in relation to the mechanically propelled vessels : The provisions of section 134, Chapters X, XI and XII of the Motor Vehicles Act, 1988 (59 of 1988) shall, as far as may be apply, in relation to the mechanically propelled vessels as they apply in relation to motor vehicles, subject to the following modifications, namely:—

(a) in section 134 and throughout in Chapters X, XI and XII,

(i) references to "motor" or "motor vehicle" or "vehicle" shall be construed as references to "mechanically propelled vessel";

(ii) references to “public place” shall be construed as references to “inland water”;

(iii) references to “public service vehicle” shall be construed a references to “public service vessel”;

(iv) references to “goods vehicle” shall be construed as references to “goods service vessel”;

(v) references to “State Transport” shall be construed as references to “State Water Transport”

(vi) references to “driver” or “driver of a vehicle” shall be construe as references to “master of a vessel”;

(vii) references to “driving licence” shall be construed as references to “a certificate granted under Chapter III of the Inland Vessels Act, 1917 (1 of 1917)”;

(viii) references to “permit” shall be construed as references to “a certificate of registration granted under section 19F of the Inland Vessels Act, 1917 (1 of 1917)”,

and such other consequential amendments as the rules of grammar may require, shall also be made;

(b) in section 145,—

(i) after clause (a), the following clause shall be inserted, namely:—

‘(aa) “goods service vessel” means any mechanically propelled vessel used or adapted to be used for carriage of cargo for hire or reward;’;

(ii) after clause (d) the following clause shall be inserted, namely:—

‘(da) “public service vessel” means any mechanically propelled vessel used or adapted to be used for the carriage of passengers for hire or reward;’;

(iii) for clause (e), the following clause shall be substituted, namely:—

‘(e) “property” includes goods carried in the inland vessel, bridges, landing facilities, navigation marks and infrastructure;’;

(iv) after clause (f), the following clause shall be inserted, namely:—

'(fa) “route” means a line of travel which specifies the waterway which may be traversed by a mechanically propelled vessel between one terminal and another;’;

(c) in section 149, in sub-section (2), in clause (a),—

(i) in sub-clause (1),—

(A) in item (c), for the words “transport vehicle”, the words “public service vessel or goods service vessel” shall be substituted;

(B) item (d) shall be omitted;

(ii) in sub-clause (ii), for the words “not duly licensed”, the words and figures “not holding a certificate granted under Chapter III of the Inland Vessels Act, 1917 (1 of 1917)” shall be substituted;

(d) in section 158,—

(i) for the words “transport vehicle”, wherever they occur, the words “public service vessel or goods service vessel” shall be substituted, and such other consequential amendments as the rules of grammar may require shall also be made;

(ii) in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

"(d) the certificate of survey granted under section 9 of the Inland Vessels Act, 1917, (1 of 1917) ";

(e) in section 161, in sub-section (3),—

(i) in clause (a), for the words “twenty-five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(ii) in clause (b), for the words "twelve thousand and five hundred rupees", the words "twenty-five thousand rupees" shall be substituted;

(f) in section 165, in sub-section (1), for the words "Motor Accidents Claims Tribunals", the words "Inland Vessel Accidents Claims Tribunals" shall be substituted.'.

12. Insertion of new Chapter VIAB : After Chapter VIA of the principal Act, the following Chapter shall be inserted, namely:—

'CHAPTER VIAB

PREVENTION AND CONTROL OF POLLUTION AND PROTECTION OF INLAND WATER

54D. Definitions : In this Chapter, unless the context otherwise requires,—

(a)"hazardous chemical" or "obnoxious substance" means any chemical or substance, as the case may be, which has been designated as such by rules made under this Chapter;

(b) "oil" means any persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, whether carried on board a tanker as cargo or fuel;

(c) "oily mixture" means a mixture with any oil content.

54E. Prohibition as to discharge of oil, oily mixture, etc., in the inland water : No oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel shall be discharged in inland water:

Provided that nothing in this section shall apply to the discharge of such oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel for the purpose of securing the safety of a mechanically propelled vessel, preventing damage to a mechanically propelled vessel, cargo or saving of life at inland water.

54F. Reception facilities at inland port, etc. :(1) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, shall provide reception facilities to discharge oil, oily mixture, hazardous chemical or obnoxious substance at such, inland port, cargo or passenger terminal.

(2) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, providing reception facilities at any inland port, a cargo or passenger terminal may make charges for the use of the facilities at such rates and may impose such conditions in respect of use thereof as may be approved by notification in the Official Gazette, by the State Government in respect of the inland port, cargo or passenger terminal.

(3) For the purposes of minimizing the pollution already caused, or for preventing the pollution threatened to be caused, the State Government may direct, by order in writing, the owner or operator of an inland port, at cargo or passenger terminal to provide or arrange for the provision of such pollution containment equipments and pollutant removing materials at such inland port, cargo and passenger terminal as may be specified in the order.

54G. Power of entry, inspection, etc. : (1) Any surveyor or any person authorised under this Act in this behalf may, at any reasonable time, enter and inspect any inland port, at cargo or passenger terminal for the purposes of—

(a) ensuring that the provisions of this Chapter are complied with;

(b) verifying whether such inland port, at cargo or passenger terminal is provided with the pollution containment equipment and pollutant removing materials in conformity with the order of the State Government or the rules made under this Chapter; and

(c) satisfying himself about the adequacy of the measures taken to prevent pollution.

(2) If the surveyor finds that the inland port, at cargo or passenger terminal is not provided with the aforesaid equipment and materials, he shall give notice to the owner or operator of such inland port,

cargo or passenger terminal, as the case may be, a notice in writing pointing out the deficiency and also what in his opinion is requisite to remedy the said deficiency.

(3) No owner or operator of such inland port, at cargo or passenger terminal, as the case may be, served with the notice under sub-section (2), shall proceed with any work at such inland port, cargo or passenger terminal, as the case may be, until he obtains a certificate signed by the surveyor to the effect that the inland port, cargo or passenger terminal, as the case may be, is properly provided with the aforesaid equipment and materials in conformity with the rules made under this Chapter.

54H. Powers of Central Government to make rules for prevention and control of pollution : (1) The Central Government may make rules for the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the designated hazardous chemical and obnoxious substance under clause (a) of section 54D;

(b) prescribe fitment of oily mixture treatment equipment on shore and on board in certain cases;

(c) prescribe details of reception facilities at inland port, cargo or passenger terminal;

(d) prescribe the forms and record books for inland port, cargo or passenger terminal and the manner in which such books shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto;

(e) any other matter which is to be, or may be, prescribed.'.

13. Insertion of new sections 62D and 62E : After section 62C of the principal Act, the following sections shall be inserted, namely:—

'62D. Punishment for offences relating to pollution: Whoever contravenes any provision of Chapter VIAB or of any rule made thereunder, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both.

62E. Offences by companies: (1) Where an offence under Chapter VIAB has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under Chapter VIAB has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.'.

14. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions,

not inconsistent with the provisions of the principal Act as amended by this Act or this Act as may appear to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date on which this Act comes into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಪಿ.ಆರ್. 96

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 64 ಕೇಶಾಪ್ರ 2007 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ನವೆಂಬರ್ 2007

2007ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 25ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Merchant Shipping (Amendment) Act, 2007 (Act No. 40 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE MERCHANT SHIPPING (AMENDMENT) ACT, 2007

AN

ACT

further to amend the Merchant Shipping Act, 1958 and the Indian Ports Act, 1908

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :

1. Short title and commencement : (1) This Act may be called the Merchant Shipping (Amendment) Act, 2007

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF THE MERCHANT SHIPPING ACT, 1958

2. Amendment of long title : In the Merchant Shipping Act, 1958 (44 of 1958) (hereinafter referred to as the principal Act), in the long title, for the word “registration”, the words “registration, certification, safety and security” shall be substituted.

3. Amendment of section : In section 3 of the principal Act, after clause (44), the following clause shall be inserted, namely:—

‘(44A) “security” means maritime security and includes any measure to protect ports or ships or any person or thing relating directly or indirectly to maritime navigation,—

(i) against terrorism, sabotage, stowaways, illegal migrants, asylum seekers, piracy, armed robbery, seizure or pilferage; and

(ii) against any other hostile act or influence which threatens the security in the maritime transport sector,

employed by the owners or operators or persons in charge of the vessels or management of port facilities, offshore installations and other marine organisations or establishments;’.

4. Amendment of section 31 : In section 31 of the principal Act, after clause (a), the following clause shall be inserted, namely:—

“(aa) the ship identification number;”.

5. Insertion of new section 99A : After section 99 of the principal Act, the following section shall be inserted, namely:—

'99A. Prohibition of engagement of seafarer without seafarer's identity document : (1) No person shall engage or carry to sea any seafarer in any ship, unless the seafarer is in possession of seafarer's identity document.

(2) The seafarer's identity document under sub-section (1) shall be issued in such form and manner and on payment of such fees as may be prescribed.

Explanation—For the purposes of this section, "seafarer" means any person who is employed or engaged or works in any capacity on board a sea going ship ordinarily engaged in maritime navigation, other than a ship of war.'.

6. Insertion of new Part IXB : After Part IXA of the principal Act, the following Part shall be inserted, namely:—

'PART IXB

SECURITY OF SHIPS AND PORT FACILITIES

344J. Application : (1) Subject to sub-section (2), this Part shall apply to—

(a) the following types of ships engaged on international voyages, namely:—

(i) passenger ships including high speed passenger craft;

(ii) cargo ships including high speed craft of five hundred gross tonnage and above;

(iii) mobile offshore drilling units:

Provided that the Central Government may extend the application of this Part to those ships which are exclusively engaged on coastal voyages;

(b) the port facilities serving ships referred to in clause (a):

Provided that the Central Government may, after taking decision, on the basis of port facility security assessment having carried out under this Part, extend the application of this Part to those port facilities which, although used primarily by ships not engaged on international voyages, are occasionally required, to serve ships arriving or departing on international voyages.

(2) This Part shall not apply to war ships, naval auxiliaries, or other ships owned or operated by the Central Government and used only for non-commercial service by that Government.

344K. Definitions : In this Part, unless the context otherwise requires,—

(a) "company" means the owner of the ship who, or any organisation which has assumed the responsibility of operation of the ship from the owner of such ship and who or which has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code;

(b) "declaration of security" means an agreement between ships or a ship and a port facility specifying therein the security measures to be complied with;

(c) "designated authority" means such authority as the Central Government may, by notification in the Official Gazette, specify;

(d) "International Ship and Port Facility Security Code" means the code for the security of ships and port facilities provided in the Safety Convention;

(e) "port facility" means any location or area including anchorages or waiting berths or approaches from seaward and determined by the Central Government or the designated authority, as the case may be, where interface between ships or a ship and a port takes place;

(f) "recognised security organisation" means and organisation, company, firm or body of individuals having expertise in matters relating to security and knowledge of ship, and port operations, which or who are authorised by the Central Government by notification in the Official Gazette, to carry out

assessment or verification or approval or certification required by this Part or by the International Ship and Port Facility Code;

(g) "security level" means the qualification of the degree of risk associated with the threat or an unlawful act against a ship, or against a port facility or any other area connected therewith;

(h) words and expressions used in this Part but not defined in this Part shall have the respective meanings as assigned to them in the Safety Convention.

344L. Ship identification number : (1) The Central Government or the designated authority, as the case may be, shall provide every Indian ship of one hundred gross tonnage and above and every Indian cargo ship of three hundred gross tonnage and above, a ship identification number, which conforms to the relevant scheme formulated by the International Maritime Organisation.

(2) All the certificates issued under this Act and all certified copies thereof shall bear the ship identification number.

344M. Security measures : (1) The Central Government or the designated authority, as the case may be, shall set security levels taking into consideration human element such as shore leave and provide information thereof to all the Indian ships, as may be prescribed.

(2) The Central Government or the designated authority, as the case may be, shall set security levels and provide information thereof to port facilities within India and to every ship prior to entering an Indian port or while in a port within India, as may be prescribed:

Provided that the Central Government may authorise any recognised security organisation to carry out any of the security measures under this section, on behalf of it, with such conditions as may be prescribed.

344N. Port facility assessment : The Central Government shall carry out port facility assessment in the manner as may be prescribed.

344O. Obligations of companies, etc : Every company, ship or port facility shall comply with the relevant requirements under the Safety Convention and the International Code for the Security of Ships and Port Facility.

344P. Obligations of Port Facility : Every port facility in India shall comply with the requirement of this Part or the rules made there under.

344Q. International Ship Security Certificate : The Central Government or the designated authority or the authorised person, as the case may be, shall issue every Indian ship to which this Part applies, an International Ship Security Certificate or an Interim International Ship Security Certificate, as the case may be, in the form and manner as may be prescribed.

344R. Ship Security Alert System : Every Indian ship shall be provided with such Ship Security Alert System, as may be prescribed.

344S. Control measures : Every ship to which this Part applies shall be subject to such control measures as may be prescribed.

344T. Power to make rules : (1) The Central Government may, having regard to the provisions of the Safety Convention, make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such rules may provide—

(a) for alternative or equivalent security levels;

(b) fee to be levied for any service rendered;

(c) any other matter which by this Part is to be, or may be, prescribed.'.

CHAPTER III

AMENDMENT OF THE INDIAN PORTS ACT, 1908

7. Insertion of new section 68D : After section 68C of the Indian Ports Act, 1908 (Act 15 of 1908), the following section shall be inserted, namely:—

'68D. Maritime security : A port facility in India shall comply with all the requirements contained in Chapter IXB of the Merchant Shipping Act, 1958 (44 of 1958) or the rules made thereunder so far as they are not inconsistent with the provisions of this Act.

Explanation- For the purposes of this section, the expression "port facility" shall have the same meaning as assigned to it in Part IXB of the Merchant Shipping Act, 1958 (44 of 1958)'.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ

ಪಿ.ಆರ್. 98

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 65 ಕೇಶಾಪ್ರ 2007 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ನವೆಂಬರ್ 2007

2007ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 27ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Warehousing (Development and Regulation) Act, 2007 (Act No. 37 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE WAREHOUSING (DEVELOPMENT AND REGULATION) ACT, 2007

AN

ACT

to make provisions for the development and regulation of warehouses, negotiability of warehouse receipts, establishment of a warehousing development and regulatory authority and for matters connected therewith or incidental thereto

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

CHAPTER - I

PRELIMINARY

1. Short title, extent and commencement : (1) This Act may be called the Warehousing (Development and Regulation) Act, 2007.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions : In this Act, unless the context otherwise requires,—

(a) "accreditation agency" means an agency, whatever be its constitution, registered with the Authority under section 5;

(b) "actionable claim" shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882 (4 of 1882);

(c) "Authority" means the Warehousing Development and Regulatory Authority established under sub-section (1) of section 24;

(d) "depositor" means a person who delivers goods to the warehouseman for storage;

(e) "endorsee" means the person to whom the warehouse receipt is negotiated;

(f) "endorsement" means signing on the warehouse receipt by the depositor or holder of the warehouse receipt for the purpose of its negotiation;

(g) "electronic form", with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, microfilm, computer generated micro fiche or similar device;

(h) "fungible goods" means any goods of which any unit is, by nature or usage of trade, the equivalent of any other like unit and are received by a warehouseman as fungible goods;

(i) "goods" means all tangible movable goods (other than actionable claims, money and securities), whether fungible or not;

(j) "grade" means the quality standard of any goods as notified as grade designation by the Central Government under the Agriculture Produce (Grading and Marking) Act, 1937 (1 of 1937) or any other law for the time being in force;

(k) "holder" means,—

(i) in relation to a negotiable warehouse receipt, a person who is in possession of such receipt and a right to goods endorsed on it; and

(ii) in relation to a non-negotiable warehouse receipt, a person named in it as the person to whom the goods are to be delivered or the assignee of that person;

(l) "member" means a member of the Authority and includes its Chairperson;

(m) "negotiable warehouse receipt" means a warehouse receipt under which the goods represented therein are deliverable to the depositor or order, the endorsement of which has the effect of transfer of goods represented thereby and the endorsee for which takes a good title;

(n) "non-negotiable warehouse receipt" means a warehouse receipt other than a negotiable warehouse receipt;

(o) "notification" means a notification published in the Official Gazette;

(p) "person" includes a firm, co-operative society or any association or body of persons, whether incorporated or not;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "regulation" means a regulation made under this Act;

(s) "warehouse" means any premises (including any protected place) conforming to all the requirements including manpower specified by the Authority by regulations wherein the warehouseman takes custody of the goods deposited by the depositor and includes a place of storage of goods under controlled conditions of temperature and humidity;

(t) "warehousing business" means the Business of maintaining warehouses in storage of goods and issuing negotiable warehouse receipts;

(u) "warehouse receipt" means an acknowledgement in writing or in electronic form issued by a warehouseman or his duly authorised representative (including depository by whatever name called) of the receipt for storage of goods not owned by the warehouseman;

(v) "warehouseman" means any person who is granted a certificate of registration in respect of any warehouse or warehouses by the Authority or an accreditation agency for carrying on the business of warehousing.

CHAPTER II

REGULATION OF WAREHOUSING BUSINESS

3. Requirement of registration for warehouses issuing negotiable warehouse receipts : (1) No person shall commence or carry on the warehousing business unless he has obtained a registration certificate in respect of the concerned warehouse or warehouses granted by the Authority under this Act:

Provided that a person carrying on the warehousing business immediately before the commencement of this Act shall be allowed to carry on such business, in case he has made an application for registration within thirty days from the date of such commencement:

Provided further that no such registration shall be required for warehouses which do not propose to issue negotiable warehouse receipt.

Explanation—For the removal of doubts, it is hereby clarified that a warehouse registered under this Act shall also be eligible to issue non-negotiable warehouse receipts.

(2) Notwithstanding anything contained in sub-section (1), the Authority may, subject to such regulations and guidelines issued by it, authorise any person registered under section 5 as an accreditation agency to issue certificate of accreditation to any person for carrying on the business of wearehousing issuing negotiable warehouse receipts.

4. Registration of warehouses : (1) Any person desirous of commencing or carrying on the business of maintaining a warehouse issuing negotiable warehouse receipts may make an application to the Authority for registration in respect of one or more warehouses owned or occupied by him.

(2) Every application for registration under sub-section (1) shall be in such form and manner and shall be accompanied by such fees as may be prescribed.

(3) The Authority may, after such enquiry and subject to such terms and conditions as it thinks fit, grant a certificate of registration of the warehouse in the prescribed form and bearing a registration number to the applicant authorising him to carry on the business of maintaining a warehouse or warehouses and to issue negotiable warehouse receipts.

(4) The Authority may not grant a certificate of registration under this section unless it is satisfied that the warehouse in respect of which the application has been made has adequate facilities and safeguards required to warehouse the goods of the nature specified in the application and the applicant satisfies the financial, managerial and other eligibility criteria and competence as may be prescribed:

Provided that no certificate of registration shall be refused to any applicant under this section unless the applicant has been given an opportunity of being heard.

5. Registration of accreditation agencies : (1) The Authority shall, from time to time, determine the number of accreditation agencies as it may authorise to issue certificate of accreditation to warehouses issuing negotiable warehouse receipts.

(2) Any person fulfilling the qualifications and other requirements as may be prescribed and desirous of functioning as an accreditation agency under this Act may make an application to the Authority seeking its registration as such under this Act.

(3) Every application under sub-section (2) shall be in such form and manner and shall be accompanied by such fees and security deposit as may be prescribed.

(4) The form in which and the terms and conditions subject to which a certificate of registration as an accreditation agency may be issued under this section shall be such as may be prescribed.

CHAPTER III

WAREHOUSEMEN

6. Liabilities of warehousemen : (1) A warehouseman is liable for loss of, or injury to, goods caused by his failure to exercise such care and diligence in regard to the goods as a careful and vigilant owner of the goods of the same bulk, quality and value would exercise in the custody of them in similar conditions.

(2) In case the goods are damaged or lost in spite of taking all care and precautions by the warehouseman due to unavoidable circumstances, the compensation equal to the value of goods at the time of deposit of the goods shall be payable by the warehouseman.

(3) In case the goods are damaged or lost due to the negligence of the warehouseman, then, the compensation shall be equal to value of goods plus the loss of profit to the holder of the receipt.

(4) The warehouseman shall not be responsible for any loss, destruction, damage or deterioration of the goods delivered to him for storage attributable to circumstances such as force majeure, act of war, act of public enemies and the like.

7. Duties of warehousemen: (1) In the absence of a lawful excuse, a warehouseman shall deliver the goods referred to in a negotiable receipt, to the holder of the receipt on demand made by the holder and on the holder fulfilling all the following conditions, namely:—

(a) satisfying the warehouse lien;

(b) surrendering the receipt in case of non-negotiable receipt and surrendering the receipt with endorsements in case of negotiable receipt; and

(c) acknowledging in writing the receipt of the goods.

(2) If a warehouseman refuses or fails to deliver the goods in compliance with the provisions of this section, the burden of proof shall lie on the warehouseman to establish the existence of a lawful excuse for the refusal or failure.

8. Duties of warehouseman to keep records and accounts of warehouse business : (1) Every warehouseman shall keep in a place of safety a complete and accurate set of records and accounts of all transactions pertaining to the operation of a warehouse including records and accounts of all goods received in the warehouse and withdrawn therefrom, of all unissued receipts in his possession, of all receipts issued, returned to, or cancelled, by him.

(2) Subject to the provisions of sub-section (1), the warehouseman shall keep all the records and accounts of the warehouse business in numerical sequence separate and distinct from the records and accounts of any other business in such form and in such manner and for such period as the Authority may, by regulations, specify.

(3) The warehouseman shall make available to the Authority for inspection the records and accounts of the warehouse business at any time as may be desired by the Authority.

9. Special powers of warehouseman to deal with perishable and hazardous goods : (1) If the goods are of a perishable or hazardous nature, or their keeping shall deteriorate greatly in value or damage other property, the warehouseman may give notice that is reasonable and possible under the circumstances to the holder of the receipt for the goods, if the name and address of the holder is known to the warehouseman or if not known to the warehouseman, then, to the depositor, requiring that person to satisfy the lien on the goods and to remove them from the warehouse.

(2) If the person to whom a notice under sub-section (1) is given fails to satisfy the lien and remove the goods within the time specified in the notice, the warehouseman may sell the goods at public or private sale without advertising.

(3) The notice referred to in sub-section (1) may be given by sending it by electronic mail, speed post or registered post or telegraphically addressed to the person to whom it is to be given at the last known address of the person and the notice is deemed to be given on the third day of the mailing.

(4) If the warehouseman after a reasonable effort is unable to sell the goods, the warehouseman may dispose of them in such other manner as he deems proper and shall incur no liability for that reason.

(5) From the proceeds of any sale or disposal of goods made under this section, the warehouseman shall, after satisfying his lien, hold the balance in trust for the holder of the receipt.

(6) No notice shall be necessary if the warehouseman is satisfied on reasonable grounds that in the circumstances of the case giving such notices is likely to cause further prejudice to the goods.

(7) If, at anytime, the warehouseman is satisfied that the quality of any fungible goods or any part thereof has so deteriorated or is so deteriorating that it is necessary to do so, to protect the holders of negotiable warehouse receipts from loss and time is not sufficient for him to seek their instructions, he may, subject to the regulations in this behalf, dispose off the goods or any part thereof and keep the sale proceeds after satisfying his lien in an escrow account for the benefit of the holders of receipts.

(8) In case of disposal of fungible goods under sub-section (7), the warehouseman shall, at the choice of the holder of the receipt, either pay the sale proceeds or deliver equivalent goods of the same grade, quality and quantity to him.

(9) Any endorsee shall have the right to intimate the address for service recorded with the warehouseman.

10. Lien of warehouseman on goods : (1) Every warehouseman has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his agent.

(2) The lien of the warehouseman is for the amount of the storage and maintenance charges including —

(a) all lawful charges for storage and preservation of the goods;

(b) all reasonable charges for—

(i) any notice required to be given under the provisions of this Act;

(ii) notice and advertisement of sale;

(iii) sale of goods where default is made in satisfying the lien of the warehouseman; and

(iv) compliance of statutory provisions.

(3) In case of any endorsement on the face of a negotiable warehouse receipt, by a bank or the warehouseman, such endorsement shall be evidence of a pledge and the pledgee shall have priority over the interest of the holder of the receipt.

(4) In case of any pledge referred to in sub-section (3), the warehouseman shall not deliver the goods unless the endorsement of the pledge has been duly got cancelled.

(5) In case the goods are not taken back within the declared period of storage, the warehouseman shall have the right to recover his charges, selling the goods by public auction, or in any other manner provided in this section any goods upon which he has a lien.

(6) The warehouseman shall give a notice in writing of his intention to sell the goods to the person liable as debtor for the charges for which the lien exists or to the owner or person owning the right of property of the goods.

(7) The notice under sub-section (6) shall —

(a) contain all the details about the goods, the location of warehouse, date of deposit, the name of depositor and a statement of lien claimed by the warehouseman for the goods stored in the warehouse; and

(b) state that unless the charges are paid within the stipulated time mentioned in the notice, the goods shall be advertised for sale and sold by public auction at a time and place as specified in the notice.

(8) If the charges are not paid on or before the day mentioned in the notice, then, unless any other mode of sale is specified by the Authority, by regulations, an advertisement of the sale shall be published in a leading newspaper having circulation in the locality where the sale is to be held as well as where the owner of the goods is located and the sale shall be held not less than fourteen days from the date of first publication of the advertisement.

(9) The warehouseman shall, from the proceeds of the sale, satisfy his lien and shall pay over the surplus, if any, to the person entitled thereto.

(10) If the surplus is not demanded by the person entitled thereto within ten days after the sale of goods or if there are different claims, the warehouseman shall seek instructions from the Authority and act as per the orders of the Authority.

CHAPTER IV
WAREHOUSE RECEIPTS

11. Warehouse receipts : (1) A warehouse receipt, which may be either in writing or in electronic form, shall be a document of title to goods in writing if it contains all the following particulars, namely:—

(a) receipt number;

(b) warehouse registration number and date up to which it is valid:

(c) name of the warehouse and its complete postal address:

(d) name and address of the person by whom or on whose behalf the goods are deposited;

(e) date of issue of the warehouse receipt;

(f) statement that the goods received shall be delivered to the holder thereof or that the goods shall be delivered to the order of a named person;

(g) rates of storage charges and handling charges;

(h) description of the goods or of the packages containing them with particulars of quantity and quality or grade;

(i) market value of the goods at the time of deposit;

(j) private marks of depositor on the goods or packages, if any, except in the case of fungible goods;

(k) name of the insurance company indemnifying for fire, flood, theft, burglary, misappropriation, riots, strikes or terrorism;

(l) whether the warehouse receipt is negotiable or non-negotiable;

(m) statement of the amount of any advance made and of any liability incurred for which the warehouseman claims his lien;

(n) date and signature of the warehouseman or his authorised agent;

(o) declared shelf-life of goods;

(p) the fact that the warehouseman holds the lien on the goods deposited for his storage and handling charges; and

(q) that the receipt would be valid only till the date of expiry of declared shelflife of the goods for which it is issued.

(2) In case a warehouseman wilfully omits from a negotiable warehouse receipt any of the particulars set out in sub-section (1), he shall be liable for damages caused by such omission.

(3) No warehouse receipt shall, by reason-of the omission only of any of the particulars set-forth in sub-section (1), be deemed to be invalid for the purpose of settlement of disputes or claims.

(4) Authority may, with the prior approval of the Central Government, add, delete or modify any particulars as specified in sub-clause (1) for all or any commodity or class of commodities or for any class of warehouses.

12. Negotiability of warehouse receipts : (1) The words in a negotiable warehouse receipt limiting its negotiability shall be void.

(2) A warehouseman who issues a non-negotiable warehouse receipt shall cause to be plainly marked upon its face the words “non-negotiable” or “not negotiable” in English or in the language in which it is issued.

(3) In case of non-compliance of sub-section (2), a holder of the warehouse receipt who purchases it for valuable consideration believing it to be a negotiable warehouse receipt may, at his option treat the receipt as vesting in him all rights attaching to a negotiable warehouse receipt and imposing upon the warehouseman the same liabilities which he would have incurred had the receipt been a negotiable warehouse receipt and the warehouseman shall be liable accordingly.

(4) A negotiable warehouse receipt shall be valid for delivery till the date of expiry of the declared shelf-life of the goods for which it is issued.

13. Negotiation of warehouse receipt by delivery : A negotiable warehouse receipt may be negotiated by its delivery if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of a named person, and that person or a subsequent endorsee has endorsed it.

14. Transfer of negotiable warehouse receipts without endorsement : Where a negotiable receipt is transferred for valuable consideration by delivery, and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the receipt, unless a contrary intention appears, and the negotiation takes effect as of the time when endorsement is made.

15. Warrantees on negotiation of warehouse receipt : A person who, for valuable consideration, negotiates a negotiable warehouse receipt by endorsement and delivery, including one who assigns for valuable consideration, a claim secured by a receipt, unless a contrary intention appears, warrants the following:—

(a) that the receipt is genuine;

(b) that the person has a legal right to negotiate or transfer it;

(c) that the person has no knowledge of any fact that would impair the validity of the receipt;

(d) that the person has a right to transfer the title to the goods; and

(e) that the goods are merchantable or fit for a particular purpose when those warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented by it.

16. Non-liability of the endorser : The endorsement of a receipt does not make the endorser liable for any failure on the part of the warehouseman or previous endorsers of the receipt to fulfil their respective obligations.

17. Negotiation of warehouse receipt not impaired by fraud, mistake or duress: The validity of the negotiation of a receipt is not impaired by the fact that—

(a) the negotiation was a breach of duty on the part of the person making the negotiation; or

(b) the owner of the receipt was induced by fraud, mistake or duress to entrust the possession or custody of the receipt to that person, if the person to whom the receipt was negotiated or a person to whom the receipt was subsequently negotiated, paid value for it without knowing of the breach of duty, fraud, mistake or duress.

18. Subsequent negotiation of warehouse receipts : If a person having sold, mortgaged or pledged goods that are in the custody of a warehouseman and for which a negotiable receipt has been issued, continues in possession of the negotiable receipt, the subsequent negotiation of it by that person under any sale or other disposition of the goods to any person receiving the receipt in good faith, for valuable consideration and without notice of the previous sale, mortgage or pledge, has the same effect

as if a previous purchaser, mortgagee or pledgee of the goods, as the case may be, had expressly authorised the subsequent negotiation.

19. Delivery of goods to be made after due charges are paid : When a negotiable warehouse receipt has been issued in respect of any goods, the warehouseman shall not delvier the goods to the depositor or endorsee, until the due charges are paid to the custodian from the date of initial deposit till delivery is made and the warehouse receipt is surrendered for cancellation.

20. Transfer of non-negotiable receipts: (1) A non-negotiable warehouse receipt may be transferred by the holder by delivery to a purchaser or donee of the goods in writing executed by the holder.

(2) A person to whom the goods covered by a non-negotiable warehouse receipt is transferred acquires —

(a) the title of the transferor to the goods; and

(b) the right to deposit with the warehouseman the receipt or duplicate thereof or to give notice in writing to the warehouseman of the transfer.

(3) The transferee shall acquire the benefit of the obligation of the warehouseman to hold goods in storage for him according to the terms of the receipt upon deposit of the transfer of the goods and on giving notice in writing of the transfer and upon the warehouseman having a reasonable opportunity of verifying the transfer.

21. Conclusiveness of negotiable warehouse receipt : In the hands of a holder who has purchased a negotiable warehouse receipt for valuable consideration, it shall be conclusive evidence of the goods described in it as against the warehouseman or any person claiming through him.

22. Presumption in certain cases : In a dispute between an endorser of a negotiable warehouse receipt and his endorsee unless it is proved otherwise, it shall be presumed that —

(a) the endorsement has been made voluntarily;

(b) the endorsement has been made for full consideration;

(c) the endorser had full legal title in the goods represented by the receipt; and

(d) the endorsement has extinguished all the rights, title and interest of the endorser in the goods.

23. Issue of duplicate receipt : (1) No warehouseman shall issue a warehouse receipt without actually receiving the goods of the quantity, quality or grade and other particulars as may be mentioned in the receipt.

(2) No warehouseman shall issue more than one receipt for the same goods deposited by any person:

Provided that in case of a loss or destruction, a duplicate receipt may be issued in such manner as may be specified by the Authority by regulations.

(3) If a warehouseman fails to comply with the provisions of sub-section (2), he would be liable for all such damages caused by the failure to any person who has transacted on such receipt for valuable consideration, believing it to be an original, even though the transaction is after the delivery of the goods by the warehouseman to the holder of the original receipt.

(4) A receipt on the face of which the word “duplicate” is plainly ‘marked is a representation and warranty by the warehouseman that it is an accurate copy of a receipt properly issued and uncancelled on the date of issue of the duplicate warehouse receipt.

CHAPTER V

THE WAREHOUSING DEVELOPMENT AND REGULATORY AUTHORITY

24. Establishment and incorporation of Authority : (1) With effect from such date as the Central Government may, by notification, specify in this behalf, there shall be constituted an authority to be called the Warehousing Development and Regulatory Authority to exercise the powers conferred on, and to perform the functions assigned to it by or under this Act.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at New Delhi and the Authority may, with the previous approval of the Central Government, establish offices at other places in India.

25. Composition of Authority : The Authority shall consist of—

(a) a Chairperson; and

(b) not more than two other members,

to be appointed by the Central Government from amongst persons of ability, integrity and standing who have wide knowledge and experience in inventory management, insurance, preservation, quality control, agriculture banking, finance, economics, law or administration.

26. Tenure of office of Chairperson and other members : (1) The Chairperson and every other member shall hold office for a term not exceeding five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Chairperson or other member after he has attained the age of sixty-five years.

(2) Notwithstanding anything contained in sub-section (1), a member may—

(a) relinquish his office by giving in writing to the Central Government notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 27

27. Removal from office : (1) The Central Government may remove from office any member who—

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as a member; or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuation in office detrimental to the public interest.

(2) No such member shall be removed under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard ‘in the matter.

28. Salary allowances and other terms and conditions of Chairperson and other members : Subject to the rules as may be made in this behalf, the salaries and allowances payable to, and other terms and conditions of service of-

(a) the Chairperson shall be the same as that of a Secretary to the Government of India;

(b) the other members of the Authority shall be the same as that of Joint Secretaries to the Government of India.

29. Bar on future employment of members : The Chairperson and the other members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept any employment in any concern in the warehousing sector.

30. Chairperson to be the chief executive of Authority : The Chairperson shall be the chief executive of the Authority.

31. Meetings of Authority : (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meettings (including the quorum at such meetings) as may be determined by regulations.

(2) The Chairperson, or if, for any reason he is unable to attend a meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the members present and voting, and in the event of an equality of votes, the Chairperson, or the person presiding shall have a second or casting vote.

32. Vacancies, etc., not to invalidate proceedings of Authority : No act or proceeding of the Authority shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority: or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

33. Officers and employees of Authority : (1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its function under this Act.

(2) The terms and conditions of service of officers and other employees of the Authority appointed under sub-section (1) shall be governed by regulations made under this Act.

34. Warehousing Advisory Committee : (1) The Authority may, by notification, constitute a Committee to be known as the Warehousing Advisory Committee to advise the Authority on matters relating to the making of regulations under section 51 and make recommendations for effective implementation of the provisions of this Act.

(2) The Warehousing Advisory Committee shall consist of not more than fifteen members excluding the members of the Authority to represent the interests of commerce, industry, engineering, agriculture, consumers, organisations engaged in warehousing, quality control, preservation and research bodies;

(3) Without prejudice to the provisions of sub-section (1), the Warehousing Advisory Committee may advise the Authority on such other matters as may be referred to it by the Authority.

CHAPTER VI

POWERS AND FUNCTIONS OF AUTHORITY

35. Powers and functions of Authority : (1) Subject to the provisions of this Act and any other law for the time being in force, the Authority shall have the duty to regulate and ensure implementation of the provisions of this Act and promote orderly growth of the warehousing business.

(2) Without prejudice to the generality of the foregoing provisions, the powers and functions of the Authority shall include the following, namely:-

(a) to issue to the applicants fulfilling the requirements for warehousemen a certificate of registration in respect of warehouses, or renew, modify, withdraw, suspend or cancel such registration;

(b) to regulate the registration and functioning of accreditation agency, renew, modify, withdraw, suspend or cancel such registration, and specify the code of conduct for officials of accreditation agencies for accreditation of the warehouses;

(c) to specify the qualifications, code of conduct and practical training for warehousemen and staff engaged in warehousing business;

(d) to regulate the process of pledge, creation of charges and enforcement thereof in respect of goods deposited with the warehouse;

(e) to promote efficiency in conduct of warehouse business;

(f) to make regulations laying down the standards for approval of certifying agencies for grading of goods;

(g) to promote professional organisations connected with the warehousing business;

(h) to determine the rate of, and levy, the fees and other charges for carrying out the provisions of this Act;

(i) to call for information from, undertaking inspection of, conducting enquiries and investigations including audit of the warehouses, accreditation agencies and other organisations connected with the warehousing business;

(j) to regulate the rates, advantages, terms and conditions that may be offered by warehousemen in respect of warehousing business;

(k) to specify, by regulations, the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by warehousemen;

(l) to maintain a panel of arbitrators and to nominate arbitrators from such panel in disputes between warehouses and warehouse receipt holders;

(m) to regulate and develop electronic system of holding and transfer of credit balances of fungible goods deposited in the warehouses;

(n) to determine the minimum percentage of space to be kept reserved for storage of agricultural commodities in a registered warehouse;

(o) to specify the duties and responsibilities of the warehouseman;

(p) to exercise such other powers and perform such other functions as may be prescribed.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

36. Grants by Central Government : The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as the Government may think fit for being utilised for the purposes of this Act.

37. Constitution of fund : (1) There shall be constituted a fund to be called the Warehousing Development and Regulatory Authority Fund and there shall be credited thereto-

(a) all Central Government grants, fees and charges received by the Authority;

(b) all sums received by the Authority from such other source as may be decided upon by the Central Government;

(c) all sums realised by way of penalties under this Act.

(2) The fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;

(b) the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

38. Accounts and audit : (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit-report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

39. Furnishing of returns, Annual Report, etc., to Central Government : (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct to furnish such returns, statements and other particulars in regard to any proposed or existing programme for the promotion and development of the warehousing industry as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Authority shall, within nine months after the close of each financial year, submit to the Central Government an Annual Report giving a true and full account of its activities including the activities for promotion and development of the warehousing business during the previous financial year.

(3) Copies of the reports received under sub-section (2) shall be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VIII

POWERS OF CENTRAL GOVERNMENT

40. Powers of Central Government to issue directions : (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers and performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

41. Power of Central Government to supersede Authority : (1) If, at any time, the Central Government is of the opinion—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period not exceeding six months, as may be specified in the notification and nominate a person to look after the functions of the Authority:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representation, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the authority,—

(a) the Chairperson and other members shall, as from the date of supersession, be deemed to have vacated their offices;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person nominated by the Central Government under clause (c) of sub-section (1);

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3)On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action to be laid before each House of Parliament at the earliest.

(5) Notwithstanding anything contained in any law or in any contract or memorandum or articles of association, on the removal of a person, from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

CHAPTER IX

APPEALS

42. Appeals to Appellate Authority : (1) Any person aggrieved by an order of the Authority made under this Act, or any rules or the regulations made thereunder may prefer an appeal to such person or authority appointed by the Central Government (hereafter referred to as the Appellate Authority) within sixty days from the date of such order:

Provided that an appeal may be admitted after the expiry of the said period of sixty days but not beyond a total period of ninety days if the appellant satisfies the Appellate Authority that he had sufficient cause for not preferring the appeal within the said period.

(2) Every appeal made under this section shall be made in such form and manner and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(3) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(4) An appeal filed before the Appellate Authority shall be heard and disposed of as expeditiously as possible and endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its filing.

CHAPTER X

OFFENCES AND PENALTIES

43. Offences and penalties : (1) Any warehouseman knowingly issuing a negotiable warehouse receipt without taking the actual physical delivery of the goods in his warehouse or a warehouseman or an agent or servant of the warehousernan who issues a warehouse receipt without reasonably satisfying himself that the goods for which such warehouse receipt is issued have actually been received or the number, weight or grade of the goods corresponds to the number, weight or grade specified in the warehouse receipt or the goods are under his actual control at the time of issuing such warehouse receipt, commits an offence and shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to four times the value of the goods or with both.

(2) A warehouseman or an agent or servant of the warehouseman, who knowingly issues a duplicate negotiable warehouse receipt without substantially following the procedure for the issue of a duplicate warehouse receipt, commits an offence and shall be punishable for such offence with imprisonment for .a term which may extend to three years, or with fine which may extend to one lakh rupees, or with both.

(3) A warehouseman or an agent or servant of the warehouseman, who, knowingly that the negotiable warehouse receipt in respect of such goods is outstanding and is uncancelled, delivers the goods without obtaining possession of such negotiable warehouse receipt at or before the time of such delivery and thereby causes unlawful loss or gain to any person, commits an offence and shall be punishable for such an offence by imprisonment for a term which may extend to three years or with fine which may extend to one lakh rupees, or with both.

(4) A warehouseman who fails, on surrender of a negotiable warehouse receipt by the depositor or endorsee and payment of all his lawful charges and cancellation of encumbrances endorsed on the receipt, within the declared shelf-life of the goods, as mentioned therein to deliver the goods represented by the receipt commits an offence and shall be punishable for such offence with imprisonment for a term which may extend to three years or with fine which may extend to three times the value of the goods or with both.

(5) Any depositor, who declared as the value of the goods delivered by him for storage with a warehouseman an amount which he does not believe to be the proper value, commits an offence and shall be punishable for such an offence with fine which may extend to one lakh rupees.

44. Offences by companies : (1) Where an offence under this Chapter is committed by a company, everyperson, who at the time the offence was committed, was in charge of the company or was responsible for making the deposit, as the case may be, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if be proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Chapter has been committed by a company and it is proved that such an offence has been committed with the consent or connivance of any director, manager, secretary or other officer of the company, such director,

manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,- —

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

45. Cognizance of offences by courts : (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or by any officer authorised in writing in this behalf by the authority.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

CHAPTER XI

MISCELLANEOUS

46. Chairperson, members, officers and other employees of Authority to be public servants: The Chairperson, members, officers and other employees of Authority and Appellate Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, (45 of 1860) to be public servants within the meaning of section 21 of the Indian Penal Code.

47. Protection of action taken in good faith : No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Central Government or any member other, officer or other employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Provided that nothing in this Act shall exempt any person any suit or other proceedings which might apart from this Act, be brought against him.

48. Delegation of powers : The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or officer of the Authority subject to such conditions, in any, as may be specified in the order, such of its powers and functions (excluding the power to make regulations under section 51) under this Act as it may deem necessary.

49. Exemption from tax on wealth and income : Notwithstanding anything contained in the Wealth-Tax Act, 1957, (27 of 1957) the Income-tax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

50. Power of Central Government to make rules : (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the form and manner in which an application or obtaining a certificate of registration for commencing or carrying on the business of warehousing issuing negotiable warehouse receipts may be made and the fees which shall accompany such application under sub-section (2) of section 4;

(b) the form in which a certificate For registration of warehouses may be issued under Sub-section (3) of section 4;

(c) The financial, managerial and other eligibility criteria and competence which an applicant for registration of warehouses shall satisfy under sub-section (4) of section 4;

(d) The qualification and other requirements which a person applying for functioning as an accreditation agency shall fulfil under sub-section (2) of section 5;

(e) the form and manner in which an application for registration as an accreditation agency may be made and the fees which shall accompany such application under sub-section (3) of section 5

(f) the form of certificate of registration of accreditation agency under sub-section (4) of section 5;

(g) the salary and allowances payable to, and the other terms and conditions of service of the Chairperson and other members under section 28;

(h) such other powers that may be exercised by the Authority under clause (p) of sub-section (2) of section 35;

(i) the form and manner of maintenance of annual statement of accounts to be maintained by the Authority under sub-section (1) of section 38;

(j) the form and manner in which and the time within which returns and statements and particulars are to be furnished by the Authority to the Central Government under sub-section (I) of section 39;

(k) the form and the manner in which an appeal may be made to the Appellate Authority and the fee which shall accompany such appeal under sub-section (2) of section 42;

(l) the procedure to be followed by the Appellate Authority in disposing of an appeal under sub-section (3) of section 42;

(m) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

51. Power of Authority to make regulations : (1) The Authority may, with the previous approval of the Central Government, and in consultation with the Warehousing Advisory Committee, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the matters regulating the authorities of accreditation agencies under sub-section (2) of section 3;

(b) the form and manner and the period for which a warehouseman shall keep the records and accounts of the warehousing business under sub-section (2) of section 8;

(c) the manner of disposal of goods or any part thereof and the keeping of sale proceeds in an escrow account by the warehouseman under sub-section (7) of section 9;

(d) the mode of sale under sub-section (10) of section 10;

(e) the manner of issuance of duplicate warehouse receipt under the proviso to sub-section (2) of section 23;

(f) the time and places of meetings of the Authority and the procedure to be followed at such meetings including the quorum necessary for the transaction of business under sub-section (1) of section 31;

(g) the terms and conditions of service of officers and other employees of the Authority under sub-section (2) of section 33;

(h) the registration and functioning of accreditation agencies, renewal, modification, withdrawal, suspension or cancellation of such registration and the code of conduct for officials of accreditation agencies for accreditation of the warehouses under clause (b) of sub-section (2) of section 35;

(i) the standards for approval of certifying agencies for grading of goods under clause (f) of sub-section (2) of section 35;

(j) the rate of fees and other charges to be levied for carrying out the provisions of this Act under clause (h) of sub-section (2) of section 35;

(k) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

52. Rules and regulations to be laid before Parliament : Every rule made by the Central Government and every regulation made by the Authority under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

53. Act to have overriding effect : The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for time being in force or in any instrument having effect by virtue of any law other than this Act.

54. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

55. Amendment of Act 2 of 1899 : After section 8B of the Stamp Act, 1899, (Act 2 of 1899) the following section shall be inserted, namely:—

"8C. Negotiable warehouse receipts not liable to stamp duty : Notwithstanding anything contained in this Act, negotiable warehouse receipts shall not be liable to stamp duty.".

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